United States Court of Appeals
for the Second Circuit

APPENDIX

ORIGINAL

77-6214

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P/S

United States Court of Appeals
FOR THE SECOND CIRCUIT

◆

SECURITIES AND EXCHANGE COMMISSION,
Plaintiff,

against

ROBERT L. VESCO, et al.,
Defendants,

WADE S. MALHAS, IRVING HOROWITZ, MARTIN JACOBY, CHARLES BIRBARA, CORNELIUS A. HUBNER, MURRAY DRYER, PHIL BIRBARA, N. E. BURGESS and WILLIAM ZEIDMAN,
Intervenor-Appellants.

ON APPEAL FROM AN ORDER OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK
(72 Civ. 5001)

UNITED STATES COURT OF APPEALS
FILED
JAN 10 1978
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

JOINT APPENDIX

SPENGLER CARLSON GUBAR CHURCHILL & BRODSKY
Attorneys for Intervenor-Appellants
280 Park Avenue
New York, New York 10017
(212) 682-4444

SHEA GOULD CLIMENKO & CASEY
Attorneys for International Controls Corp.
330 Madison Avenue
New York, New York 10017
(212) 661-3200

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Exhibit C--Report of the board of directors of International Controls Corp. dated August 18, 1977 (omitted) . . . .

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Mar.12,73	Filed Memo of pltf securites and Exchange Comm. regarding motion for severence made by deft. Laurence R. Richardson, Jr.
Mar.13,73	Filed Notice of cross Appeal, by Frank G.Beatty,Richard E. Clay and Wilbert J. Snipes. (n/m)
Mar12-73	Filed Stip and Order that the time for deft Laurence B. Richardson to answer the complaint is extended to 3-12-73. STEWART,J.
Mar.13,73	Filed bond No .623558, Amt. $250.00, Royal Globe Ins.Co.
Mar.13-73	Filed Notice of Motion Ret. 3/12/73 (no time given) re: sever this action as agai deft.
Mar.13-73	Filed MEMO.END. on motion papers filed this day. Counsel for pltf.and for other def not objecting, the motion for severance of the actions as against Laurance B. Richardson, Jr. is hereby granted. So ordered. Stewart, J.
Mar.14-73	Filed stipulation and order extending deft. Laurence B.Richardson's time to answer complaint to 3/19/73. So ordered. Stewart, J.
Mar.16,73	Filed stip and order extending Allan C. Butler, time to answer until 3-26-73. So Ordered. STEWART, J.
Mar.16,73	Filed Final Judgment of Permanent Injunction and Appointment of Sepcial Counsel and Directors (International Controls Corp.) Ordered that International Controls is permanently enjoined from directly or indirectly using the U.S.Mails,etc.; Ordered International Controls permanently enjoined from making any solicitation of proxy by means of any proxy statement,; Ordered that this Court shall appoint a Special Counsel satisfactory to plaintiff Commission,etc; Ordered that Interna Controls shall fully cooperate with the Special Counsel and plaintiff Commission Ordered that the Court shall retain jurisdiction of this matter for the purpose enforcing and amending this Final Judgment. Nothing in this Final Judgment shall preclude the Court from disposing of any other issues in this proceedings. AND there being no just reason for delay, the Clerk of the Court is hereby directed this judgment pursuant to Rule 54(b) of the Federal Rules of Civil Procedure. STEWART,J. Judgment Entered, Clerk Mar.16,73. (n/m)
Mar.20-73	Filed Memorandum of Law in support of motion for an order compelling deft. Beatty to answer certain questions.
Mar.20-73	Filed stipulation and order extending defendants time to answer complaint to 3/26/73 So ordered. Stewart, J.
Mar.22-73	Filed Affidavits of Service of Summons and complaint upon defendants
Mar.22-73	Filed Order amending Schedule A to the Order of 12/20/72 by the addition of paragraph providing "Bank deposits, including certificates of deposit, in The bank of New York,New York, NY or in the London, England branch of such bank". Stewart, J. (mailed notice).
Mar.23,73	Filed Deft's Stip & Order extending time for deft Georges Phillipe,Bank Cantrade,Ltd. Consulentia Verwaltungs,A.G. to answer complaint is extended to 4/26/73.Stewart.

	PROCEEDINGS
	the receiver is authorized to transfer certain receivable among certain subsidiaries of PRI, the court authorizes receiver to aithorize and direct Lawrence Wilkov to cause Cascades Apartments Corp., N.V. to pay [illegible] and the court approves and confirms the recivers action in causing Mr. Wilkob to cause Cascades on 12-4-75 to make payment in the amount of $246,807.24 to Pepper Construction Co. for shell and core work performed. and to to transfer to Cascades, from HDC sufficient funds to make payment, identifying such transfer on the bookd of HDC as a demand loan to Cascades--Gagliardi, J. m/n
12-17-75	Filed notice of entry of an order filed and entared on 12-6-75.
12-19-75	Filed transcript of record of proceeding dated 9-24-75
12-19-75	Filed Transcript of record of proceeding dated 9-26-75
12-19-75	Filed Transcript of record of proceedings dated 10-21-75.
12-20-75	Filed ORDER that this Court confirms the of payment of compensation in the amount of $1,988 to the Firm of Ball, Hunt, Hart, Brown and Baerwitz for legal services, the receiver is authorized to to direct Mr. L. Wilkov to compensate Ball Hunt in the amount of $6,818.03, for legal service in re. to sale or lease of certain real property , the receiver is authorized to take certain steps to ensure that Hasley Canyon Corp. is able to meet its financial obligations during immediate furture as indicated herein , it is confirmed that the advance of $31,287.57 from Hemispheres Decelopment Corp. to Waterways, N.V. to enable Waterways to pay the balance due on its 1971 Dade County real estate taxes and that it is approved that the following reinvestments of funds by the receiver in his capacity as receiver of Bahamas Commonwealth Bank, Ltd. etc. as indicated herein--Stewart, J. m/n
12-30-75	Filed notice of entry of order filud 12-29-75
01-09-76	Filed Pettitioners notice of motion to intervene and supporting papers ret. 1-22-76
01-15-76	Filed application by special counsel David M. Butowsky for order approving bill (and affdvt.)
01-14-76	Filed stip. and order subatituting atty's for deft, John D. Schyler
01-15-76	Filed notice of entry of order filed 1-15-76
01-15-76	Filed pltf. notice of taking deposition of Robert Foglia on 2-19-76.-subp iss.
01-16-76	Filed Receiver affdvt, application and notice of motion for an order granting an interim allowance of compensation and costs ret. 1-29-76.
01-16-76	Filed Receiver affdvt., application and notice of motion for an order granting the Receiver interim allowance of compensation ret. 1-29-76
01-19-76	Filed Order that this Court confirms the action of the reciver entering into a agreement, on behalf of 99 John Corp. covering certain real property, terms and provisions of the letter agreement is confirmed. Receiver is authorized to convey, in lieu of foreclosure, the property of Great American in according with terms of the Letter agreement and authorizes the reciever to take all action to be executed in re. to deed of the Property and all such instruments ---Stewart, J. /m/n
01-19-76	Filed Order that the application of Special Counsel dated Jan. 14, 1976 for an order approving Bill is approved---Stewart, J. m/n
01-20-76	Filed memo. end. on motion filed 9-18-75. Upon reconsideration of opinion reported at CCH Fed. Sec. L. Rep. 93.77 , and in light of the Court of Appeals decision, the Sec's motion is granted, except as to deft Frank G. Beatty who has agreed to relinquish the protective order.--Stewart, J. m/n
01-20-76	Filed Memo. end. on motion filed 10-16-75. Motion denied. Se memorandum of this date on Sed's motion to set aside protective order of 2-16-73--Stewart, J. m/n
01-21-76	Filed stip. and order changing hearing requested by Wade S. Malhas, et.al. to 1-29-76 -- Stewart, J.
01-21-76	Filed stip. and order ext. deft. Lawrence B. Richardson, Jr.'s time to answer complaint of 2-6-76 -- Stewart, J.

D. C. 110 Rev. Civil Docket Continuation

DATE	PROCEEDINGS	Date Judg.
01-22-76	Filed pltfs notice to take depositions of Bruno Lederer et.al. on dates indicated.	
01-29-76	Filed affdvt. of intervening petitioners in opposition to application for an adjournment	
01-30-76	Filed deft. IIC affdvt. in support of application for an adjournment	
02-02-76	Filed ORDER that the Court approves and confirms the receiver's retention of the law firm of Shutts & Bowen of Miami, Fla. to render legal opinions inre. yo to the Hemispheres' recreation lease agreements and to authorize the receiver and direct Mr. L. Wilkov to Hemispheres Corp. to compensate said law firm for services in the amount indicated, the receiver is authorized to authorized and direct Mr. Wilkov to transfer to Waterwyas, sufficient funds to enable Waterways to compensate the Hialeah, Fla law firm Katcher and Schlarin in the amount of $1,258.50 and that this Court approves and confirms the receiver's in having cuase Mr. Wilkov to cause 99 John to make payments to Landauer for certain real estate consulting and advisory services and expenses as indicated herein---Stewart, J. m/n	
02-03-76	Filed deft. Milton F. Meissner memorandum and notice of motion for an order for reconsideration for a hearing ret. 2-19-76.	
02-03-76	Filed Order that the ret. date of deft. International Controls motion is adj. to twenty days following the determination of the referred to appeal --Stewart, J. m/n	
01-30-76	Filed notice of entry of an order filed 1-30-76.	
02-06-76	Filed Order that this Court approves and confirms the execution, and autherizes the delivery of a lease and that receiver implementation such lease as set forth in a letter datd 1-8-76 from Redken to IPI., the receiver is authorized to direct Mr. Wilkov to compenstae the NY Firm Weil, Gotshal& Manges in the amount of $8, 975.65,for services and that the receiver is authorized to direct Mr. Wilkov to compenstate Weil, Gotshal & Manges for legal advice and services rendered regarding tax status of the PRL subsidiaries in an amount not to exceed $10,000 per quarter, plus reasonable costs and discursements without further leave of this Court---Gagliardi, J. m/n	
02-13-76	Filed deft. Robert D. Foglia notice of motion for payment of travel expenses and for enlargement of time within whi h to appear for a deposition on submission	
02-17-76	Filed notice of entry of an order filed on 2-6-76	
02-17-76	Filed pltf. affdvt. and response of to motion for payment of expenses and for enlargement of time	
02-17-76	Filed pltf. memorandum regarding payment of travel expenses and enlargement of time within to appear for a deposition.	
02-18-76	Filed reply affdvt. of Robert D. Foglia.	
02-18-76	Filed deft. International Controls Corp. notice of motion for an order for entry of an order ret. 3-4-76	
02-19-76	Filed certificate of servcie by Gregory C. Glynn of memorandum served upon all parties on attached list, on 2-19-76	
02-19-76	Filed pltf. memorandum in opposition to motion of deft Meissner for reconsideration	
02-19-76	Filed Order that the deposition of Robert Foglia currently set by subp. shall be continued to 4-27-76 and until completed and upon completion of his deposition Foglia shall be entitled to appropriate witness fees as determined, and fees shall include mileage as indicated herein--Weinfeld, J. m/n	
02-20-76	Filed memo. end. on copy of motion dated 11-7-76 Motion denied--Stewart, J. m/n	
02-20-76	Filed Order that the applicant is granted an interim allowance for services performed as Receiver from 10-1-75 through 12-31-75 in the amount of $37.500.00 and an allowance of $453.98 as reinbursement for costs and expense and the applicant is authorized to pay himself the above authorized amounts	

Continued over — on page -59-

72 CIV SECURITIES ADN EXCHANGE COMM's -vs- VESCO ET AL STEWART, J.

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D.C. 110 Rev. Civil Docket Continuation

DATE	PROCEEDINGS	Dat Judg
	and that it is ordered that this Court approves the execution and delivery by the receiver on behalf of PRL of that certain extention agreement dated 10-21-76 amoung Troy V. Post, Inwestment Properties International LTD. and PRL --Stewart m/n	J.
12-01-76	Filed notice of entry of an order filed on 11-30-76	
12-07-76	Filed notice of	
12-07-76	Filed ORDER that the receiver is authorized to cause payment to be made of certain funds both currently owed and becoming due to IPI Financial Corp., B.V. Indevco Management Corp., N.V. and Hemispheres Development by certain subsidiaries of Property Resources Ltd. interest, in the total amount of $543,027.81 and that the receiver is authorized to direct Mr. Wilkov to cause HDC to instruct Indevco Bahamas to make quarterly transfers of the HDC funds collected by Indevco Bahamas in Amsterdam to IPI Financial on account of interest and principal paymens on indebtedness owed to IPI by HDC without further leave of this Court---Stewart, J. m/n	
12-07-76	Filed notice of entry of a true copy of an order filed on 12-7-76	
12-08-76	Filed pltf's affdvt. in opposition to motion for summary judgment on behalf of deft. Wilbert J. Snipes	
12-08-76	Filed pltf's memorandum in opposition to motion for summary judgment made on behalf deft. Wilbert J. Snipes	
12-08-76	Filed deposition taken of Stanley Graze on 9-29-76	
	Filed Transcript of record of proceedings, [illegible] 6-16-76	
12-27-76	Filed plaintiff's notice to take deposition of Marvin H. Hoffman, et.al.	
12-29-76	Filed order authorizing compensation to law firm Goodrich, Dalton, Little & Riquelme in the sum of $4,500 for services rendered in 1976 in connection with real property in Mexico; ordereed that Court approves a certain lease in re IPI Industrial Park, Inc.; in re Pratum Corp. a loan; in re "Indevco" a loan; in re "HDC" a loan; ordered that the Court also approves certain re-investments -- Stuart, J. m/n	
12-30-76	Filed notice of entry of order filed 12-29-76.	
01-05-77	Filed deposition of Robert E, Slater pages 1-134 dtd, 11-04-76	
01-05-77	Filed deposition of Robert E. Slater pages 135-2151 dtd, 11-05-77	
01-12-77	Filed continued deposition of Edward A. Stoltenberg -- dtd.05-26-76	
01-13-77	Filed pltfs notice to take depositions of Monte Krissman, et.al. --(California depositions)--	
01-13-77	Filed order granting interim allowance to Shea Gould Climenko & Casey-Stewart, J. m/n	
01-20-77	Filed deft International Controls Corp. affdvt. in order to present the views of the Board on the application by Shareholders Malhas to compel a meeting	
01-20-77	Filed deft. International Controls Corp. affdvt. opposing the holding of a shareholders metting	
01-21-77	Filed Receiver Schemmer affdvt. application and motice of motion for an order granting applicant an interim allowance of costs and expenses and for other relief ret. 2-3-77	
01-21-77	Filed Receiver Schemmer affdvt. application and notice of motion for an order granting the Receiver an interim allowance and for other relief ret. 2-3-77	
01-20-77	Filed ORDER that this proceeding as against defft Frederic J. Weymar only is terminated with prejudice--Stewart, J. Judgment entered on 1-20-77-Clerk m/n	
01-26-77	Filed Intervening Petitioner's affdvt. in response to affdvts by Allen M. Shinn and M. Butowsky opposing the holding of a shareholders' meeting to elect directors of International Controls Corp.	

continued on page--67----

	PROCEEDINGS	Date Order or Judgment Noted
77	Filed deft. Weymar assignment of interest	
-77	Filed stip. and order that deft. Weymar agree to settlement and the final order attached has been entered without trial ---Stewart, J. m/n	
-77	Filed ORDER that Venture Fund and I.I. T. permit insepction of the originals of the documents requested at the offices , the parties seeking the discovery be permitted to obtain xerographic copies of those documents at their own expense and that the parties seeking discovery shall pay the reasonalbe expenses of a clerk to supervise the insepction, if supervision is necessary--- Mag: Schreiber m/n	
77	Filed deposition of Golbert N. Losurdo taken January 20, 21, 1976	
-77	Filed continued deposition of Gilbert N. Losurdo taken 3-10-76	
-77	Filed Echibits of Gilbert Losurdo to deposition filed 1-31-77	
-77	Filed ORDER that the Court authorized interim allowance of compensation and expenses to counsel to the receiver ---Stewart, J. m/n	
-03-77	Filed ORDER that the applicant is granted an interim allowance for services performed as Receiver---Stewart, J. m/n	
3-77	Filed deposition of Bank of New York taken by Herbert W. Becker on 5-13-77	
-08-77	Filed Exhabits of Herbert W. Becker in re to his deposition taken 5-13, 14, 1976 and 6-1-76 filed 2-9-77,	
-08-77	Filed notice of entry of orders filed on 2-3-77	
-77	Filed pltf. notice of takeing deposition of A. C. Rice on 2-16-77	
7-77	Filed pltf's affdvt. and notice of motion for sanctions against defts Robert L Vesco et al ret. 3-10-77	
17-77	Filed pltf's memorandum of law in support of above motion for sanctions against defts.	
17-77	Filed pltf's exhibits to affdvt. of Frederic M. Krieger in support of pltf's motion for sanction against defts Vesco et al	
-17-77	Filed Dupilcate original of pltf. notice of taking deposition of A. C. Rice on 2-16-77 of 217-77	
-01-77	Filed Final Consent ORDER that the Final Judgment or any orders of this Court entered prior are subject to restrictions set forth herein in re.to transferring asset out of the U.S. without prior approval of this Court and that PRL shall keep pltf informed and shall consult pltf. on regular basis as to the administration of the assets and business of PRL subsidiaries --Stewart, J. m/n	
01-77	Filed pltf's notice of taking deposition of all person listed herein on dated as indicated	
02-77	Filed notice of entry of an ~~final~~ Consent Order filed 3-1-77	
-3-77	Filed deposition of John D. Schuyler taken on 3-23-76	
-03-77	Filed Continued deposition of John D. Schuyler taken on 3-24-76	
03-77	Filed Continued deposition of John D. Schuyler taken on 3-25-76	
3-77	Filed deposition of Bernard Cornfeld taken on July 1, 1976	
-03-77	Filed deposition of Bernard Cornfeld taken July 6, 7, 1976	
-03-77	Filed deposition of Robert Sutner taken 10-21-76	
4-77	Filed ORDER that the application of Special Counsel dated 2-18-77 for an order approving bill is approved--Stewart, J. m/n	
-07-77	Filed affdvt. and application by special counsel for order approving bill	
09-77	Filed pltf recommendations regarding motion for intervention and for a meeting of shareholders.	
10-77	Filed deft. Milton F. Meissner Reply memorandum to motion of S.E.C. for sanctions against Dr. Meissner	
4-11-77	Filed pltf's recommendations regarding motion for intervention and for meeting os shareholders	

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CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF	DEFENDANT	DOCKET NO. 76-50[illegible]
SECURITIES and EXCHANGE COMMISSION	ROBERT L. VESCO, ET AL	PAGE 68 OF — PAGES

DATE	NR	PROCEEDINGS
03-15-77		Filed deft. Stoltenberg affdvt. statment under rule 9 (g) and notice of motion for an order granting summary judgment ret. 4-28-77
03-15-77		Filed deft. Stoltenberg memorandum in support of motion for summary judgment ab
03-21-77		Filed pltf's supplemental affdvt. in support Commission's motion for sanctions o deft. Milton F. Meissner
03-21-77		Filed pltf's memorandum of law in reply to opposition by deft. Milton F. Meissne to Commission's motion for sanctionss against deft. Meissner pursuant to rule 37
03-23-77		Filed pltf's supplemental affdvt. in support of Commission's motion for sanctions of deft, Milton F. Meissner pursuant to rule37
03-23-77		Filed pltf's memorandum of law in reply to opposition by deft. Milton F. Meissne to Commision's motion for sanctions against deft. Meissner pursuant ro rul 37
03-23-77		Filed pltf' second supplemental affdvt. of Gregory C. Glynn in support of Commios motion for sanctions of deft. Milton C. Meissner pursuant to rule 37
03-30-77		Filed Letter of Frederic M. Kriegar to Ms. Smalls in re to enclosed transcripts and copy of exhibits to the deposition of Robert D. Foglia with unsigned deposition attached
04-04-77		Filed ORDER that the petitioner receive an interim allowance for serivce rendered as counsel to Int'l Controls Corp. for the period form Oct. 1, 1976 to Dec. 31, 1976 in the amount of $33,181 and that the peritioner be reimburs for its costs and disbursements incurred during this period in the amount of $3,414.88--Stewart, J. m/n
4-11-77		*Filed Transcript of record of proceedings dated 2-18-77*
04-11-77		Filed pltf's notice of taking deposition of Edward T. Whitcraft, Whitcraft is to produce documents described in exhibit "C" of 9-24-76 on 4-20-77 Joseph E. Irenes on 4-26-77 Laurence B. Richardson, Jr on 4-and 5 1977 and Richardson is to produce documents Norman F. Kiken on 5-11-12 and 13 1977 he is to produce dpcuments Arthur J. Rothkop on 5-17, 18, 19, and 20 1977 and he is to produce documents
04-13-77		Filed pltv's affdvt. and notice of motion for an extension of time ret. 4-21-77
04-13-77		Filed pltf' memorandum in support of above motion for extension of time in which file papers opposing summary judgment
04-20-77		Filed Receiver affdvt. application for allowance and notice fo motion for an ord granting applicant an interim allowance of compensation and costs and expense and for other relief ret. 5-5-77
04-20-77		Filed Receiver affdvt.application and notice of motion for an order granting the Receiver an interim allowance of compensation and costs and expenses, and for other relief. ret. 5-5-77
04-19-77		Filed ORDER that within Forty-Five days deft. International Controls Corp should inform shockholders of the Board's intention to hold a meeting's for the election of Board Directors etc---Stewart, J.
04-22-77		Filed notice of entry of an order filed 4-19-77
04-29-77		Filed pltf's affdvt. and notice of motion for annorder imposing sanction against deft. Ulrich J. Strickler pursuant to rule 37 ret. 5-12-77
04-29-77		Filed pltf's memorandum in support of above motion for sanctions against deft. Ulrich J. Stickler pursuant to rule 37.

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CIVIL DOCKET CONTINUATION SHEET STEWART, J.

PLAINTIFF	DEFENDANT	
S.E.C.	ROBERT L. VESCO ET AL	DOCKET NO. 72-500 PAGE 70 OF 70 PAGE

DATE	NR.	PROCEEDINGS
06-02-77		Filed ORDER approving certain settlement agreement bet. Debussy Realty Co. N.V in re. to Leisure Colony Management Corp. dated 1-10-77, confirms the terms and conditions of purchase and sale agreement bet. the Developer and the Ass dated 1-10-77, the terms andcon ditions of certain addendum to sale agreeme 99 John Corp., N.V. is authorize to consummate the transactions contemplated by settlement agreement and the Court confirms the indicated reinvestments of funds by the receiver in his capacity as receiver for Bahamas Commonwealt Bank Ltd. --Stewart, J.
06-02-77		Filed Receiver notice of entry of an order filed 6-2-77.
06-06-77		Filed Transcript of record of proceedings, dated 3-21-77
06-13-77		Filed deft. Edward A. Stoltenberg Reply affdvt. in support of his motion for summary judgment and in particular, to respond to the accusati on in the opposing papers of the pltf. that my employment by ICI. Ltd. was a breac of fiduciary duty and a fraud
06-13-77		Filed deft. E. A. Stoltenberg Reply memorandun in support of motion for summary judgment
06-24-77		Filed affdvt. of Gregory C. Glynn atty. with S.E.C. in regard to motion for sanction against deft. Ulrich J. Strickler (6-21-77)
06-28-77		Filed deposition of Leonard M. Polisar taken on 3-31-77 m/n
06-28-77		Filed letter of William C. Ragals, Jr. to Judge Stewart dated 6-20-77 requestin reimbursement of $150.00 for expenses incurred by him in attendin the meeting of the Board of Directors held on 6-13-77
07-18-77		Filed letter of William C. Ragals, Jr. to Judge Stewart dated 7-7- requesting reimbursement for expenses incurred by him in attending the meeting of th Board of Directors held 6-28-77.
07-18-77		Filed deposition of Monte A. Krissman taken on 1-31-77 (sealed envelope)
07-18-77		Filed deposition of Martin L. Solomon taken on 5-26-77 (sealed envelope)
07-20-77		Filed ORDER that Petitioner receive an interim allowance for servies rendered Int'l Controls Corp. for the period from 1-1-77 to March 31,1977 in the amount of %15,398 and that petitioner be reimbursed for its costs and disbursements incurred during said period in the amont of #3,880.60 --- Stewart, J. m/n
08-08-77		Filed deft. International Controls Corp. notice of taking deposition of the following--Wade S. Malhas on 8-18-77 Charles Birbaraon 8-19-77 Phil Birbara on 8-19-77 Irving Horowitz on 8-25-77 Martin Jabcoby on 8-25-77 Murray Dryer on 8-26-77 N.E. Burgess on 8-26-77 William Zeidman on 8-26-77
08-09-77		Filed Consent to substitute atty's for defts The Fund of Funds,Ltd. and IOS Grow Fund, Ltd a/k/a/ Transglobel Growth Fund, Ltd. --Stewart, J. /
08-15-77		Filed deft. International Controls Corp. application for counsel fees.
08-15-77		Filed affdvt. of David M. Butowsky Special Counsel to International Controls C Special Counsel is unable to meet the 8-15-77 deadline and this affdvt. is prepared in support of his application for extension of time to 11-5-77
08-15-77		Filed Special Counsel to International Controls Corp. application for extension of time
08-15-77		Filed ORDER that the application for ext. of time is approved in the following respects 1. The time within which Special Counsel must file his Repor of Investigation is ext. through 11-5-77 2. The Court's Order dated 4-19-77 remains unaffected--Stewar
Con't	over	

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF	DEFENDANT	DOCKET NO. 72-5011
S.E.C.	Robert L. Vesco et al	PAGE 71 OF 71 PAGES

DATE	NR	PROCEEDINGS
08-26-77		Filed petitioners affdvt. and Order To Show Cause Irdered that deft, Int'l Contr Corp. shoe cause on 8-30-77 at 10:00 o'clock a,m. in Rm. 1505 why an order should not be made (a) rescinding the court-appointed directors action in setting a record date of 8-31-77 and a meeting dated of 10-18-77 and orderi defts to delay fixing substitute record and meeting dated for meeting of sahreholders, service should be rendered on or before 8-26-77 by 5:00 p.m. and that answering papers shuold be served on atty's for petitioners and fi with the court on or before 9-29-77 at *:00 o'clock-- Owen.J.
09-02-77		Filed pltf's supplementla memorandum in opposition to motion for summayr judgment on behalf of deft. Edward A. Stoltenberg.
09-02-77		Filed pltf's certificate of service by Corliss A. Primavera that the follosing document Supplemental memorandum of pltf. and Exchange Commissions in opposition to motion for summary judgment will be served upon persons on th attached list on 9-2-77 by mailing copies to each person
09-06-77		Filed petitioner's affdvt. and notice of motion for an order prohibiting court-appointed firectors from succeeding themselves in office at the next election of shareholders of International Controls Corp. and other reli ret. 9-7-77
09-07-77		Filed deft. IIT affdvt. with respect to the sequence of International Controls Cor Stockholders meeting and special counser's report
09-07-77		Filed affdvt. by Raoul Gersten for Jacob A. Schiltkamp and C.G. Hartog liquicators of Venture Fund with respect to the sequence of International Controls Corp. Stockholders meeting and special counsel's report
09-08-77		Filed Petitioners supplemental affdvt. of affdvt. pf 9-2-77 seeking certain reli with respect to a stockholders meeting for 10-18-77.
09-07-77		[illegible] TRIAL [illegible] BY Stewart, J.
09-16-77		Filed Petitioners Wade S. Malhas et al reply affdvt. to the affdvt. of John Mos dated 9-6-77 and the affdvts of Raoul Gersten etc dated 9-6-77 and to s forth new facts evidencing the need for the relief sought by Petitioner
09-16-77		Filed Petitioners memorandum in support motion
09-15-77		Filed Pltf's recommendations regarding election of directors of International Controls Corp. (9-15-77)
09-22-77		Filed defts IIT and Baden, et al joint affdvt. in respect to the sequence of International Controls Corp. Stockholders meeting and special counsel's report
9-27-77		Filed Affdvt of Edward Brodsky in support of petitioners.,etc.
09-29-77		Filed petitioners reply affdvt. to position of interim ICC Board recommendations and request of the Borard of Directors of Int'l Control Corp. of 9-26-77
9-30-77		Filed ORDER that order of April 19, 1977 is modified, etc......Stewart.J. m/n.
10-13-77		Filed defts (ICC) position, recommendations & requests of the Boar of Directors of ICC.
10-13-77		Filed defts (ICC) affdvt in opposition to motion of proposed intervenors rescinding the resolution re stockholders meeting 10-18-77, etc.
10-13-77		Filed defts (ICC) memorandum in opposition to motion of Wade S. Malhas, et al.
10-13-77		Filed deft (ICC) affdvt in opposition to motion of Petitoner Malha
10-1[illegible]-77		Filed deft (ICC) reply memorandum.

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF
S.E.C.

DEFENDANT
Robert L. Vesco et al

DOCKET NO 72-500
PAGE 12 OF 72

DATE	NR	PROCEEDINGS
10-11-77		Fld Order desingating Mag Sol Schrieber to hear and determine the scheduling o discovery with respect to Coopers & Lybrand in the SEC Action and in the Venture Fund Action and the the Application of Coopers & Lybrand is G in all respects, etc Stewart. J.
10-17-77		Fld Order that the court's order designating a magistrat and irecting a hear is vacated, Stewart J. m/n
*10-13-77		Fld Notice to take deposition of Norman P. Kiken on Oct 13, 14, 1977 and William C. Jennings on Oct 27-28, 1977.
*10-13-77		Fld Notice to take deposition of George Georges on Oct 14, 1977.
10-19-77		Fld Notice of entry of a true copy of An Order designating a Mag and directi hearing filed and entered on Oct 6, 1977.
10-20-77		Filed pltf's n otice of taking deposition of Murray Dryer on 10-20-77 Cornelius A. Hubner on 10-20-77 and William Zeidman on 10-20-77 and all the above a required to produce documents.
10-21-77		Filed ORDER, that petitioner receive an interim allowance for services rendere as counsel to International Controls Corp. for the period from 4-1-7 June 30, 1977 in the amount of $18,688 and that petitioner be reimbur for its costs and disbursements incurrred during said period in the a of $1,804.30--Stewar,t J. m/n
10-21-77		Filed pltf's recommendations of to the Special Mater (10-19-77 (First)
10-25-77		Filed ORDER granting Special Counsel time to file his Report of Investigation t 12-1-77=-Stewart, J. m/n
10-28-77		Filed plan and recommendations of Special Master Arnold Bauman
11-10-77		Filed David M. Butowsky. Special Counsel for ICC application regarding the payr of fees (sub. 1973)
11-10 -77		Filed pltf's notice of taking deposition of Lawrence B. Richardso on 11-10- Gilbert S. Bennett on 12-1-77 James D. McMenamin on 12-12-77 Kenneth L. Beaugrant on 1-5-78 Frank Beatty on 1-12-78
11-11-77		Filed pltf's stipulated request and motion of SEC for extension . with memo. Motion granted--Stewart, J. m/n
11-16-77		Filed deft. International Controls Corp. objections to plan and recommendatior of Special Master
11-15-77		Filed Prposed Intervenors Wade S. Malhas et al objections to plan and recomme dations of Special Master.
11-16-77		Filed Petitioner's application for counsel fees With memo. end. Applicati fees granted--Stewart, J. m/n
11-16-77		Filed pltf's commnets on plan and recommendations of Special Master
11-21-77		Filed pltf's (Corrected Version) of Comments of plan and recommendations o Spececial Master
11-23-77		Filed letter to Judge Stewart of Arnold Bauman dated 11-21-77 in re to the proposed intervenors.
11-28-77		Filed One Manila evelope contians 1 order dtd. 11-28-77 Ordered sealed and impounded and not to be opened until further order of this Court placed in voult in Rm. 66
11-25-77		Field MEMORANDUM DECISION We have review the comments and objections of the S of ICC and of the proposed Intervenors to the Plana reocmmneded by the Spec Master in his report dated 10=27-77 we,a pprove the plan with the amendment indicated herein. The Special Master shall promptly prepare and distribute revised plan in accordance with this opinion. So Ordered-Stewart, J.

CONTINUED ON PAGE 73

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF	DEFENDANT	
S.E.C.	VESCO et al	DOCKET NO. 72-5001 PAGE 73 OF 73 PAGES

DATE	NR.	PROCEEDINGS
11-29-77		Filed David M. Butowsky report of investigation Special Counselt to Internatio Controls Crop.
12-14-77		Filed Transcript of record of proceedings, dated 8-30-77
12-14-77		Filed Transcript of record of proceedings, dated 9-7-77
		Filed Transcript of record of proceedings, dated 9-7-77
12-1-77		Filed Transcript of record of proceedings, dated 9-16-77
12-21-77		Filed intervenors Wade S. Malhas et al notice of appeal to the USCA for the Second Circuit from the Decision and Order approving the plan of election for International Courtols Corp. of 11-22-77. mailed copy to Arnold Bauman, Special Master, Shea Gould Climenko & Caset, Underweiser & Underweiser, William D. Moran, Gregory C. Glynn, David Butowsky, Dornbush mensch & Mandelstam, Eugene R. Anderson and Raoul Gerstein
12-20-77		Filed ORDER that the petitioners motion to intervene in this action is granted --Stewart, J. m/n
12-22-77		Filed ORDER that this Xourt approves, and confirms that the reinvestments of fund by the receiver in his capacity as receiver for Bahamas Commonwealth Bank Ltd. in re to deposit certification on dates adn time indicated herein --Stewart, J. m/n
12-23-77		Filed Receiver J. K. Schemmer notice of entry of a true copy of an order filed on 12-22-77

FINAL JUDGMENT OF PERMANENT INJUNCTION DATED MARCH 16, 1973

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff

against

ROBERT L. VESCO, NORMAN LeBLANC, MILTON F. MEISSNER, ULRICH J. STRICKLER, STANLEY GRAZE, FRANK G. BEATTY, RICHARD E. CLAY, WILBERT J. SNIPES, JAMES ROOSEVELT, FREDERIC J. WEYMAR, GILBERT R. J. STRAUB, C. HENRY BUHL, III, ALLAN C. BUTLER, LAURENCE B. RICHARDSON, JOHN D. SCHUYLER, EDWARD STOLTENBERG, HOWARD F. CERNY, GEORGES PHILLIPE, ALLAN F. CONWILL, RAYMOND W. MERITT, JOHN S. D'ALIMONTE, IOS LTD., INTERNATIONAL CONTROLS CORP., BAHAMAS COMMONWEALTH BANK, LTD., OVERSEAS DEVELOPMENT BANK LUXEMBOURG S.A., INTERNATIONAL BANCORP LTD., VALUE CAPITAL LTD., BUTLERS BANK LTD., TRANSGLOBAL FINANCIAL SERVICES LTD., KILMOREY INVESTMENTS LTD., GLOBAL HOLDINGS LTD., GLOBAL FINANCIAL LTD., I.I.T. MANAGEMENT CO., S.A., F.O.F. MANAGEMENT CO., LTD., VENTURE MANAGEMENT CO., LTD., TRANSGLOBAL GROWTH FUND MANAGEMENT CO., LTD., BANK CANTRADE, LTD., VENTURE FUND (INTERNATIONAL), N.V., FUND OF FUNDS, LTD., TRANSGLOBAL GROWTH FUND, LTD., IIT, AN INTERNATIONAL INVESTMENT TRUST, CONSULENTIA VERWALTUNGS, A.G.,

Defendants.

72 Civ. 5001
(CES)

U.S. DISTRICT COURT
FILED
MAR 16 1973
S.D. OF N.Y.

MICROFILM
MAR 16 1973

FINAL JUDGMENT OF PERMANENT INJUNCTION AND APPOINTMENT OF SPECIAL COUNSEL AND DIRECTORS (INTERNATIONAL CONTROLS CORP.)

Plaintiff, Securities and Exchange Commission, having filed its complaint herein and defendant International Controls Corp. ("International Controls") having: (a) acknowledged in the attached Consent receipt of a copy of the Summons and Complaint filed herein; (b) admitted *in personam* jurisdiction of this Court over it and the jurisdiction of this Court over the subject matter of this action; (c) waived entry of findings of fact and conclusions of law under Rule 52 of the Federal Rules of Civil Procedure with respect to the entry of this Final Judgment of Permanent Injunction and Appointment of a Special Counsel and Directors ("Final Judgment"); and (d) agreed to the entry of this Final Judgment, without admitting or denying the allegations in the Commission's complaint; and it further appearing that this Court has jurisdiction over the parties and the subject matter hereof, it is hereby:

(1) ORDERED, ADJUDGED AND DECREED that International Controls is hereby permanently enjoined from directly or indirectly using the U. S. mails, the means or instrumentalities of interstate commerce or the facilities of national securities exchanges to employ any scheme to defraud investors or engage in acts and practices which operate as a fraud or deceit or to make any untrue statements of material facts or omit to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading in connection with the purchase or sale of securities of defendants International Controls, IOS Ltd. (its subsidiaries and affiliated corporations), mutual funds managed by IOS Ltd. including but not limited to Venture Fund (International) N.V., Fund of Funds, Ltd., International Investment Trust, and Transglobal Growth Fund, Ltd., and securities of any other issuer;

(2) ORDERED that International Controls is hereby permanently enjoined from making any solicitation of a proxy by means of any proxy statement, form of proxy, notice of meeting

or other communication, written or oral, containing any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for the same meeting or subject matter which has become false or misleading, or filing any report with the Commission pursuant to Sections 13(a) and (b) of the Securities Exchange Act of 1934, 15 U.S.C. 78m(a), (b), containing any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact required to be stated therein or necessary in order to make the statements therein not false or misleading;

(3) ORDERED that this Court shall appoint a Special Counsel satisfactory to plaintiff Commission. The Special Counsel (i) shall be paid such compensation and be reimbursed for such expenses (including counsel fees) by International Controls as shall be allowed by this Court; (ii) shall not be liable for any action taken or omitted to be taken by him or for any error in judgment made in good faith by him in his capacity as Special Counsel unless it shall be proved that he was grossly negligent in connection with such action, omission or judgment; (iii) shall have the right to consult this Court and to apply

to this Court for advice or direction; and (iv) shall have the right to resign and be discharged of his obligations as Special Counsel upon notice to this Court, in which event, a successor shall be appointed in the manner provided above for the appointment of Special Counsel. The Special Counsel shall have the power and be directed to:

(a) conduct a full investigation and arrange for and oversee an accounting into the financial and other affairs of International Controls, and report to this Court and plaintiff Commission his findings and recommendations for action. Such investigation shall include, but not be limited to, those matters set forth in the Commission's complaint in this action, the Affidavit and Reply Affidavit filed by defendant Richardson in this action in support of his motion for the appointment of a receiver, and such other matters as plaintiff Commission or the board of directors of International Controls shall designate;

(b) take all appropriate action, including but not limited to, the institution and prosecution of suits on behalf of International Controls to recover all assets or monies improperly used, taken, wasted, misappropriated, dispensed, obligated or paid to anyone (i) without appropriate authorization, approval or ratification of the board of directors of International Controls or (ii) in breach of duties owed to defendant International Controls or its subsidiaries by present or former officers, directors or employees of International Controls or any other person. The Special Counsel shall consult with plaintiff Commission and the board of directors of International Controls in the resolution of all claims International Controls may have. He shall neither decline to pursue any claim (including actions referred to in subparagraph 3(e) below), nor settle any claims, against the recommendation of plaintiff Commission and without the approval of this Court;

(c) in the event that International Controls does not file with plaintiff Commission any necessary filings as ordered herein, or otherwise take any action ordered herein, the Special Counsel shall make such reports and filings for International Controls and take such other actions as may be required within such time as plaintiff Commission shall designate;

(d) pending the investigation and accounting, by the Special Counsel, he shall take immediate necessary or appropriate action to protect International Controls' claims, interests and rights and pursue all possible claims against the defendants herein or any other persons including, but not limited to, the commencement of legal proceedings to prevent the dissipation or flight of any funds or other assets, the placing of a stop transfer order on securities beneficially owned or controlled by said defendants and/or the institution of appropriate action to freeze and preserve the assets of said defendants or others who may be obligated to International Controls; and

(e) take such further action, subject to the approval of this Court, as may be necessary or appropriate for the protection of the shareholders of International Controls.

(4) ORDERED that this Court shall appoint a new interim independent board of directors for International Controls, none of whom shall previously have served as a member of the board of directors of International Controls. Said interim board of directors shall consist of at least three persons, shall be satisfactory to plaintiff Commission, shall replace the existing board of directors of International Controls, and shall have full power under applicable corporate law to conduct the affairs of International Controls in conjunction with the Special Counsel, subject to the terms and conditions of this Final Judgment. Any dispute between the Special Counsel and the board of directors shall be submitted to this Court for determination. The board of directors appointed pursuant to this paragraph shall hold office until further order of this Court upon application of

plaintiff Commission and until the shareholders of International Controls have elected a new board of directors in compliance with the provisions of the Securities Exchange Act of 1934. No individual director appointed pursuant to this provision shall be discharged or replaced or any additional directors be appointed or elected except upon application to this Court by plaintiff Commission in accordance with the provisions of this paragraph. International Controls, its officers and all persons or entities under its control, are enjoined and restrained from permitting unless on terms satisfactory to plaintiff Commission any defendant in this action to remain or become an officer, director, employee or consultant to International Controls or any subsidiary, or engage in any activities with International Controls in which such defendants shall receive any compensation.

Each interim Director appointed by this Court (i) shall be paid such compensation by International Controls as shall be allowed by this Court; (ii) shall not be liable for any action taken or omitted to be taken by him or for any error in judgment made in good faith by him in his capacity as interim Director unless it shall be proved that he was grossly negligent in connection with such action; omission or judgment; (iii) shall have the right to consult with counsel; and (iv) shall have the right to resign and be discharged of his obligations as interim Director upon notice to this Court, in which event, a successor shall be appointed by this Court, in the manner provided in the first paragraph of this paragraph No. (4).

(5) **ORDERED** that within 180 days from the entry of this order or such later time as plaintiff Commission shall permit, International Controls (i) shall make all required filings with plaintiff Commission not heretofore made; (ii) shall make any amendments and supplements to its existing filings with the Commission as required by law; (iii) shall make such amendments and supplements to its existing filings with the Commission, including, but not limited to, its Form 10-K for the fiscal year ended December 31, 1970, its Form 10-K for the fiscal year ended December 31, 1971, its Form 10-Q for the six months ended June 30, 1972 and its Forms 8-K for May 1971 and June, July and August 1972, which may be necessary or appropriate in order that such filings not contain any untrue statements of material facts or omit to state material facts required to be stated therein or necessary to make the statements made in such filings not false or misleading in the light of the circumstances under which they were made; and (iv) shall make any amendments and supplements to its reports to shareholders, including but not limited to its 1970 and 1971 annual reports, which may be necessary or appropriate in order that such reports not contain any untrue statements of material facts or omit to state material facts necessary to make the statements made in such reports not false or misleading in the light of the circumstances under which they were made. In making any such amendments, International Controls shall specifically consider those matters described in plaintiff Commission's complaint in this action.

(6) ORDERED that International Controls shall fully cooperate with the Special Counsel and plaintiff Commission, including making available all papers, books and records to such parties.

(7) IT IS FURTHER ORDERED, ADJUDGED AND DECREED that defendant International Controls voluntarily waives any attorney-client privileges directly or indirectly relating to the issues in this action; and

(8) IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court shall retain jurisdiction of this matter for the purpose of enforcing and amending this Final Judgment.

Nothing in this Final Judgment shall preclude the Court from disposing of any other issues in this proceedings.

AND there being no just reason for delay, the Clerk of the Court is hereby directed to enter this judgment pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

Charles E. Stewart, Jr.
UNITED STATES DISTRICT JUDGE

MAR
JUDGMENT ENTERED

Dated: March 16, 1973

Thomas E. Andrews
Acting Clerk

CONSENT OF INTERNATIONAL CONTROLS CORP. TO FINAL JUDGMENT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

72 Civ. 5001 (CES)

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff

against

ROBERT L. VESCO,
INTERNATIONAL CONTROLS CORP., et al.,

Defendants

CONSENT OF INTERNATIONAL CONTROLS CORP. TO FINAL JUDGMENT OF PERMANENT INJUNCTION AND APPOINTMENT OF SPECIAL COUNSEL AND DIRECTORS

1. Defendant INTERNATIONAL CONTROLS CORP. ("INTERNATIONAL CONTROLS") admits the in personam jurisdiction of this Court over it and the jurisdiction of this Court over the subject matter of this action, admits the service of the summons and complaint upon it, admits that the complaint filed herein by the plaintiff SECURITIES AND EXCHANGE COMMISSION ("COMMISSION") states claims upon which the Court has jurisdiction to grant relief; plaintiff COMMISSION and defendant INTERNATIONAL CONTROLS waive the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Laws of Civil Procedure; and defendant INTERNATIONAL CONTROLS, without admitting or denying any of the allegations in the Commission's complaint, HEREBY CONSENTS to the entry, in accordance with the demands of the complaint and of this consent, of the Final Judgment of Permanent Injunction and Appointment of Special Counsel and Directors, in the form annexed hereto, without further notice.

2. This consent is given by defendant INTERNATIONAL CONTROLS voluntarily and no promise or threat of any kind whatso-

BEST COPY AVAILABLE

ever has been made by plaintiff, Commission, or any member, officer agent or representative thereof, to induce defendant INTERNATIONAL CONTROLS to enter into this consent.

3. The members of the Board of Directors of defendant INTERNATIONAL CONTROLS have informed the Corporation that they will promptly resign their directorships.

4. INTERNATIONAL CONTROLS agrees and represents that it shall fully cooperate with the Special Counsel and plaintiff Commission, including making available all papers, books and records to such parties and DOES HEREBY WAIVE any attorney-client privileges directly or indirectly relating to the issues in this action.

5. Defendant INTERNATIONAL CONTROLS further consents that the courts shall retain jurisdiction of this matter for the purpose of endorsing and amending this decree.

Dated: New York, New York
March 16, 1973

INTERNATIONAL CONTROLS CORP.

By Elmer A Sticco
Elmer A. Sticco, President

STATE OF NEW YORK, COUNTY OF NEW YORK) SS:

On the 16th day of March, 1973, before me personally appeared ELMER A. STICCO, President and Chief Executive Officer of International Controls Corp., to me known to be the person who executed the foregoing consent, and he acknowledged to me that he executed the same on behalf of International Controls Corp. and that he was duly authorized and directed by such company to execute the foregoing consent on its behalf.

Notary Public
ANN SINGERMAN
Notary Public, State of New York
No. 31-3687100
Qualified in New York County
Term Expires March 30, 1974

CERTIFICATE OF MINUTES OF INTERNATIONAL CONTROLS CORP, AUTHORIZING THE FINAL JUDGMENT OF PERMANENT INJUNCTION AND APPOINTMENT OF SPECIAL COUNSEL AND DIRECTORS,

I, C. LEONARD GORDON, a member of the firm of Shea Gould Climenko & Kramer, 330 Madison Avenue, New York, New York, DO HEREBY CERTIFY that a Special Meeting of the Board of Directors of INTERNATIONAL CONTROLS CORP. was called and held at 11:00 a.m. on March 13, 1973 at the offices of my firm; that I was designated by ELMER A. STICCO, the chief executive officer of the Company, to act as secretary to the meeting; that six of the eight members of the Board of Directors were present in person and two members of the Board of Directors were present by telephone; that the following resolutions were proposed by Mr. Sticco-

> "RESOLVED that Counsel to the Company, Messrs. Shea Gould Climenko & Kramer are authorized and directed to enter into, on behalf of the Company, a Final Judgment of Permanent Injunction and Appointment of Special Counsel and Directors substantially in the form of draft thereof presented to this meeting and annexed to the Minutes as Exhibit "A" with such amendments thereto and changes therein as such Counsel may deem advisable and be able to obtain;
>
> RESOLVED that Counsel is directed to proceed immediately with the Securities and Exchange Commission and the Court to accomplish the purpose of the foregoing Resolution;"

that a true copy of said Exhibit "A" is annexed hereto; that the following directors voted in favor of the foregoing resolutions by a show of hands and voice vote -

Frank G. Beatty,
Philip E. Gustlin,
Harry Sears,
Elmer A. Sticco,
Laurence Richardson,
Michael Rossi;

that Messrs. Wilbert E. Snipes and Malcolm McAlpin, who were present by telephone, voted in favor of the foregoing resolutions by voice vote; and that the foregoing resolutions were, accordingly, unanimously adopted.

IN WITNESS HEREOF I have hereunto signed my name this 16th day of March, 1973.

C. Leonard Gordon
C. LEONARD GORDON
Acting Secretary

I, ELMER A. STICCO, the chief executive officer of INTERNATIONAL CONTROLS CORP. DO HEREBY CERTIFY that a Special Meeting of the Board of Directors of the Company was duly called and held at 11:00 a.m. on March 13, 1973, at the offices of Shea Gould Climenko & Kramer, 330 Madison Avenue, New York, New York, and that C. LEONARD GORDON was duly appointed to act as secretary to the meeting and did so act throughout the meeting.

Elmer A Sticco
ELMER A. STICCO
Chief Executive Officer

NOTICE OF MOTION TO INTERVENE DATED JANUARY 9, 1976

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- -X

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, : 72 Civ. 5001 (CES)

- against - : NOTICE OF MOTION TO INTERVENE

ROBERT L. VESCO, INTERNATIONAL CONTROLS CORP., et al., :

:

Defendants.

- -X

SIRS:

PLEASE TAKE NOTICE, that upon the annexed intervenors' complaint, and upon the annexed affidavits of petitioners, Wade S. Malhas, Irving Horowitz, Martin Jacoby, Charles Birbara, Cornelius A. Hubner, Murray Dryer, Phil Birbara, N. E. Burgess and William Zeidman, all of said petitioners being stockholders of International Controls Corp., and on all of the prior pleadings and proceedings heretofore had herein, the undersigned attorneys for the said petitioners will bring this petition on for hearing before the Honorable Charles E. Stewart, one of the judges of this Court, in Room 2602 of the United States Courthouse, Foley Square, New York, New York on the 22nd day of January, 1976, at 10 o'clock in the forenoon of that day or as soon thereafter as counsel can be heard, for an Order pursuant to Rule 24 of the Federal Rules of Civil Procedure permitting the petitioners to intervene in this action as interested parties and for an order directing that a meeting of the shareholders of International Controls Corp. be called as soon as possible for the purpose of electing directors, and for such other and further relief as to this Court may seem just and proper.

Dated: January 9, 1976
New York, New York

Yours, etc.,

GOLDSTEIN, SHAMES & HYDE

By:
A Member of the Firm
655 Madison Avenue
New York, New York 10021
(212) 826-9550

UNDERWEISER & FUCHS

By:
A Member of the Firm
250 Park Avenue
New York, New York 10017
(212) 867-6062
Attorneys for Petitioners

TO: SECURITIES AND EXCHANGE COMMISSION
26 Federal Plaza
New York, New York

Shea, Gould, Climenko & Kramer
330 Madison Avenue
New York, New York

Gordon, Hurwitz, Butowsky, Baker, Weitzen & Shalov
299 Park Avenue
New York, New York

AFFIDAVIT OF WADE S. MALHAS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

--------------------------------------X

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

- against - : 72 Civ. 5001 (CES)

ROBERT L. VESCO, INTERNATIONAL :
CONTROLS CORP., et al.,
:
Defendants.

--------------------------------------X

PETITION TO INTERVENE AND MOTION FOR ORDER DIRECTING THAT A MEETING OF THE SHAREHOLDERS OF INTERNATIONAL CONTROLS CORP. BE HELD FOR THE PURPOSE OF ELECTING DIRECTORS

DR. WADE S. MALHAS, being duly sworn, petitions this Court as follows:

1. I reside at 1825 North Lincoln Plaza, Chicago, Illinois 60614. I am a physician duly licensed to practice medicine in the State of Illinois and maintain an office to conduct such practice at 1825 North Lincoln Plaza, Chicago, Illinois.

2. My economic interest in International Controls Corp. (hereinafter referred to as "ICC") is substantial. I own more than 75,000 shares of Common Stock of ICC.

3. I have been a shareholder of ICC since May, 1973.

4. On November 27, 1972, the Securities and Exchange Commission (hereinafter referred to as "the Commission") insti-

tuted an action against Robert L. Vesco (hereinafter referred to as "Vesco"), ICC, and others, alleging, among other things that the defendants had engaged in a scheme to defraud the investors of ICC.

5. On March 16, 1973, the Court entered a Final Judgment of Permanent Injunction (hereinafter referred to as the "Judgment"), consented to by ICC, which, among other things, ordered (1) the appointment by the Court of a new interim independent Board of Directors for ICC, none of whom previously had served as a member of the Board of Directors of ICC; and (2) the appointment of a Special Counsel satisfactory to the Commission for the purpose of conducting a full investigation into the affairs of the Company and to institute appropriate legal action.

6. Pursuant to the mandate of that Judgment, David M. Butowsky, Esq., was appointed Special Counsel, and the former ICC directors resigned and were replaced by an appointed Board. The Judgment further provided that the Board of Directors were to hold office "until further order of this Court upon application of the Commission and until the shareholders of International Controls Corporation have elected a new Board of Directors in compliance with the provisions of the Securities and Exchange Act of 1934." In accordance with the Court's Judgment, the Board of Directors of ICC has remained unchanged since March, 1973. No annual meeting of ICC's shareholders has been held since 1972.

7. As a result, the shareholders of ICC, who, except for Vesco and his associates, committed no wrong, have been disenfranchised. Since 1972 I and my fellow shareholders have been

deprivedof our basic corporate right to duly elect the persons of our choice to run the Company we own.

8. In its Judgment, the Court recognized that the measures provided therein were only temporary. The shareholders of ICC should now be relieved of the constraints imposed upon them as a result of the emergency situation existing in March, 1973. The reasons for the drastic action taken at that time no longer exist, and disenfranchisement can no longer be justifed.

9. On June 11, 1975, in aid of a judgment obtained by ICC against Vesco, this Court ordered Vesco to turn over 122,463 shares of ICC stock held by him in record name, and further ordered that a hearing be held to determine whether ICC could also enforce such judgment by proceeding against 846,380 shares of ICC stock held of record by Vesco and Co., Inc. A hearing was held on June 30, 1975. On August 22, 1975, this Court directed that Vesco and Vesco & Co., Inc. turn over to a receiver all shares of ICC in their possession. The Court reserved decision on the right of ICC as a judgment creditor to seek cancellation of the stock held by Vesco and Vesco & Co., Inc. "until such time as it may become necessary to decide." As a result of this determination by the Court, any threat that Vesco influence an election of a Board of Directors of ICC has been removed.

10. My motive in seeking this relief is to protect the substantial economic interest which I have in ICC. I have never been associated with Vesco or with any former director of ICC, nor have I ever even met or spoken to such persons. It

is my belief that the interests of the shareholders can best be served by a Board of Directors elected by them and responsive to their needs.

11. In an analogous case, where even less time had elapsed since the last shareholders' meeting was held, the Court, in holding that no further delay was warranted, stated:

> "It is high time that the . . . stockholders . . . have an opportunity which they have not had in some years to elect a board of directors." Securities and Exchange Commission v. Fifth Avenue Coach Lines, Inc., Civil No. 67-4182 (S.D.N.Y., filed January 19, 1970).

12. For the reasons stated above, petitioner's motion to intervene should be granted and the Court should direct that a meeting of the shareholders of ICC for the election of directors be held as soon as possible.

Wade Malhas

DR. WADE S. MALHAS

Sworn to before me
this [illegible] day of
[illegible], 1975.

My Commission Expires November 2, 1970

AFFIDAVIT OF IRVING HOROWITZ

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
---------------------------------------X

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

-against- :

72 Civ. 5001 (CES)

ROBERT L. VESCO, INTERNATIONAL :
CONTROLS CORP., et al., :

Defendants.

---------------------------------------X

IRVING HOROWITZ, being duly sworn, deposes and says:

I am presently the owner of 52,000 shares of the common stock of International Controls Corp. I have been a shareholder of International Controls Corp. since June 1970

I hereby join in the Petition to the Court for an order directing that a meeting of shareholders of International Controls Corp. be held as soon as possible for the election of directors.

IRVING HOROWITZ

Sworn to before me
this 2nd day of
January, 1976.

AFFIDAVIT OF MARTIN JACOBY

UNITED STATES DISTRICT COURT
~~SOUTHERN DISTRICT OF NEW YORK~~
STATE OF FLORIDA
COUNTY OF BROWARD

---X

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

- against - : 72 Civ. 5001 (CES)

ROBERT L. VESCO, INTERNATIONAL CONTROLS CORP., et al., :

Defendants. :

---X

MARTIN JACOBY, being duly sworn, deposes and says:

I am presently the owner of 13,500 shares of the common stock of International Controls Corp. I have been a shareholder of International Controls Corp. since June, 1970

I hereby join in the Petition to the Court for an order directing that a meeting of shareholders of International Controls Corp. be held as soon as possible for the election of directors.

MARTIN JACOBY
Martin Jacoby

Sworn to before me
this 29th day of
December , 1975.

Celia Segel
Notary Public

NOTARY PUBLIC STATE OF FLORIDA at LARGE
MY COMMISSION EXPIRES DECEMBER 18, 1977
BONDED BY AMERICAN BANKERS INSURANCE CO.

AFFIDAVIT OF CHARLES BIRBARA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

---X

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

- against - : 72 Civ. 5001 (CES)

ROBERT L. VESCO, INTERNATIONAL :
CONTROLS CORP., et al.,

:

Defendants.

---X

CHARLES BIRBARA, M. D., being duly sworn, deposes and says:

I am presently the owner of 11,000 shares of the common stock of International Controls Corp. I have been a shareholder of International Controls Corp. since August 1975.

I hereby join in the Petition to the Court for an order directing that a meeting of shareholders of International Controls Corp. be held as soon as possible for the election of directors.

Charles A Birbara, M.D.
CHARLES BIRBARA, M. D.

Sworn to before me
this 27th day of
December, 1975
Gladys S. Abbott

AFFIDAVIT OF CORNELIUS A. HUBNER

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

---X

SECURITIES AND EXCHANGE COMMISSION. :

Plaintiff, :

- against - : 72 Civ. 5001 (CES)

ROBERT L. VESCO, INTERNATIONAL :
CONTROLS CORP., et al., :

Defendants.

---X

CORNELIUS A. HUBNER, being duly sworn, deposes and says:

I am presently the owner of 11,000 shares of the common stock of International Controls Corp. I have been a shareholder of International Controls Corp. since Oct 5, 1970

I hereby join in the Petition to the Court for an order directing that a meeting of shareholders of International Controls Corp. be held as soon as possible for the election of directors.

Cornelius A Hubner
CORNELIUS A. HUBNER

Sworn to before me
this [illegible] day of [illegible]
, 1975.

[illegible]

[illegible] BARTLEY
NOTARY PUBLIC OF NEW JERSEY

AFFIDAVIT OF MURRAY DRYER

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

---------------------------------------X

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

- against - : 72 Civ. 500 (CES)

ROBERT L. VESCO, INTERNATIONAL :
CONTROLS CORP., et al.,
:
Defendants.

---------------------------------------X

MURRAY DRYER, being duly sworn, deposes and says:

I am presently the owner of 11,000 shares of the common stock of International Controls Corp. I have been a shareholder of International Controls Corp. since 1970

I hereby join in the Petition to the Court for an order directing that a meeting of shareholders of International Controls Corp. be held as soon as possible for the election of directors.

MURRAY DRYER

Sworn to before me
this 6 day of
March, 1975
YORK
1976
COM

AFFIDAVIT OF PHIL BIRBARA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

--X

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

- against - : 72 Civ. 5001 (CES)

ROBERT L. VESCO, INTERNATIONAL :
CONTROLS CORP., et al.,
:
Defendants.

--X

PHIL BIRBARA, being duly sworn, deposes and says:

I am presently the owner of 2,500 shares of the common stock of International Controls Corp. I have been a shareholder of International Controls Corp. since SEPT. '75.

I hereby join in the Petition to the Court for an order directing that a meeting of shareholders of International Controls Corp. be held as soon as possible for the election of directors.

Philip J. Birbara
PHIL BIRBARA

Sworn to before me
this 29th day of
December, 1975.

AFFIDAVIT OF N. E. BURGESS

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

---X

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

- against - : 72 Civ. 5001 (CES)

ROBERT L. VESCO, INTERNATIONAL :
CONTROLS CORP., et al.,
:
Defendants.

---X

N. E. BURGESS, being duly sworn, deposes and says:

I am presently the owner of 1,600 shares of the common stock of International Controls Corp. I have been a shareholder of International Controls Corp. since
In addition, my wife owns 1,500 shares of stock and Southern Chemical Associates, a company of which I am sole shareholder and President, owns 2,000 shares of ICC stock.

I hereby join in the Petition to the Court for an order directing that a meeting of shareholders of International Controls Corp. be held as soon as possible for the election of directors.

N. E. Burgess
N. E. BURGESS

Sworn to before me
this 23rd day of
Dec , 1975.

NOTARY PUBLIC OF NEW JERSEY

AFFIDAVIT OF WILLIAM ZEIDMAN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

---------------------------------------X

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

- against - : 72 Civ. 5001 (CES)

ROBERT L. VESCO, INTERNATIONAL :
CONTROLS CORP., et al.,
:
Defendants.

---------------------------------------X

WILLIAM ZEIDMAN, being duly sworn, deposes and says:

I am presently the owner of 2300 shares of the common stock of International Controls Corp. I have been a shareholder of International Controls Corp. since

I hereby join in the Petition to the Court for an order directing that a meeting of shareholders of International Controls Corp. be held as soon as possible for the election of directors.

William Zeidman
WILLIAM ZEIDMAN

Sworn to before me this
6th day of June, 1976.

INTERVENORS' COMPLAINT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

- against - : 72 Civ. 5001 (CES)

ROBERT L. VESCO, INTERNATIONAL CONTROLS CORP., et al., : INTERVENORS' COMPLAINT

:

Defendants.

- x

PETITIONERS, Wade S. Malhas, Irving Horowitz, Martin Jacoby, Charles Birbara, Cornelius A. Hubner, Murray Dryer, Phil Birbara, N. E. Burgess and William Zeidman, by their undersigned attorneys, allege as follows:

1. Petitioners are shareholders of International Controls Corp. (hereinafter referred to as "ICC").

2. The economic interest of Petitioners in ICC is substantial; Petitioners own an aggregate of more than 179,000 shares of Common Stock of ICC.

3. On November 27, 1972, the Securities and Exchange Commission (hereinafter referred to as "the Commission") instituted an action against Robert L. Vesco (hereinafter referred to as "Vesco"), ICC, and others, alleging, among other things

that the defendants had engaged in a scheme to defraud the investors of ICC.

4. On March 16, 1973, the Court entered a Final Judgment of Permanent Injunction (hereinafter referred to as the "Judgment"), consented to by ICC, which, among other things, ordered (1) the appointment by the Court of a new interim independent Board of Directors for ICC, none of whom previously had served as a member of the Board of Directors of ICC; and (2) the appointment of a Special Counsel satisfactory to the Commission for the purpose of conducting a full investigation into the affairs of the Company and to institute appropriate legal action.

5. Pursuant to the mandate of that Judgment, David M. Butowsky, Esq., was appointed Special Counsel, and the former ICC directors resigned and were replaced by an appointed Board. The Judgment further provided that the Board of Directors were to hold office "until further order of this Court upon application of the Commission and until the shareholders of International Controls Corporation have elected a new Board of Directors in compliance with the provisions of the Securities and Exchange Act of 1934." In accordance with the Court's Judgment, the Board of Directors of ICC has remained unchanged since March, 1973. No annual meeting of ICC's shareholders has been held since 1972.

6. As a result, the shareholders of ICC, who, except

for Vesco and his associates, committed no wrong, have been disenfranchised. Since 1972, Petitioners and their fellow shareholders have been deprived of their basic corporate right to duly elect the persons of their choice to run the Company they own.

7. In its Judgment, the Court recognized that the measures provided therein were only temporary. The shareholders of ICC should now be relieved of the constraints imposed upon them as a result of the emergency situation existing in March, 1973. The reasons for the drastic action taken at that time no longer exist, and disenfranchisement can no longer be justified.

8. On June 11, 1975, in aid of a judgment obtained by ICC against Vesco, this Court ordered Vesco to turn over 122,463 shares of ICC stock held by him in record name, and further ordered that a hearing be held to determine whether ICC could also enforce such judgment by proceeding against 846,380 shares of ICC stock held of record by Vesco and Co., Inc. A hearing was held on June 30, 1975. On August 22, 1975, this Court directed that Vesco and Vesco & Co., Inc., turn over to a receiver all shares of ICC in their possession. The Court reserved decision on the right of ICC as a judgment creditor to seek cancellation of the stock held by Vesco and Vesco & Co., Inc., "until such time as it may become necessary to decide." As a result of this determination by the Court, any threat that Vesco influence an election of a Board of Directors of ICC has

been removed.

9. Petitioners are seeking this relief to protect the substantial economic interest which they have in ICC. The interests of the shareholders can best be served by a Board of Directors elected by them and responsive to their needs.

WHEREFORE, Petitioners request this Court to order that a meeting of the shareholders of ICC for the election of directors be held as soon as possible.

Dated: New York, New York

Yours, etc.,

GOLDSTEIN, SHAMES & HYDE

By____________________________
A Member of the Firm
655 Madison Avenue
New York, New York 10021
(212) 826-9550

UNDERWEISER & FUCHS

By____________________________
A Member of the Firm
250 Park Avenue
New York, New York 10017
(212) 867-6062

Attorneys for Petitioners

STIPULATED DATED JANUARY 14, 1976

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-------------------------------------X

SECURITIES AND EXCHANGE COMMISSION :

Plaintiff, : 72 Civ. 5001 (CES)

- against - :

ROBERT L. VESCO, INTERNATIONAL CONTROLS CORP., et al., : **STIPULATION**

Defendants. :

-------------------------------------X

IT IS HEREBY STIPULATED AND AGREED TO, between the parties hereto and the petitioners, Wade S. Malhas, Irving Horowitz, Martin Jacoby, Charles Birbara, Cornelius A. Hubner, Murray Dryer, Phil Birbara, N.E. Burgess and William Zeidman, that the time of the hearing requested by the petitioners for an Order pursuant to Rule 24 of the Federal Rules of Civil Procedure is hereby changed from the 22nd day of January, 1976 to the 29th day of January, 1976.

Dated: January 14, 1976
New York, New York

Yours, etc.

GOLDSTEIN, SHAMES & HYDE

By:________________
A Member of the Firm
655 Madison Avenue
New York, New York 10021
(212) 826-9550

SECURITIES AND EXCHANGE COMMISSION

By:________________
Marvin Jacob, Esq.
26 Federal Plaza
New York, New York
(212) 264-1647

SHEA, GOULD, CLIMENKO & KRAMER

By:____________________________
A Member of the Firm
330 Madison Avenue
New York, New York
(212) 661-3200

GORDON, HURWITZ, BUTOWSKY,
BAKER, WEITZEN & SHALOV

By: David M Butowsky
A Member of the Firm
299 Park Avenue
New York, New York 10017
(212) 486-1550

(29)

AFFIDAVIT OF MILTON S. GOULD SWORN TO ON JANUARY 28, 1976

11

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

---------------------------------------x

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, : 72 Civ. 5001

[CES]

-against- :

AFFIDAVIT IN SUPPORT OF APPLICATION FOR AN ADJOURNMENT

ROBERT L. VESCO, INTERNATIONAL CONTROLS CORP., et al., :

Defendants. :

---------------------------------------x

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

MILTON S. GOULD being duly sworn deposes and says:

1. I am a member of the firm of Shea Gould Climenko Kramer and Casey, attorneys for International Controls Corp., ("ICC") one of the defendants in the above entitled matter. I make this affidavit in support of ICC's request that the motion to intervene, presently pending before this court, be adjourned until 20 days following the decision by the Court of Appeals in an appeal pending in a related matter.

2. By notice of motion dated January 9, 1976, certain shareholders of ICC seek to intervene herein for the purpose of obtaining an order directing that a meeting of the shareholders of ICC be called for the purpose of electing directors to replace the board of directors appointed by this Court pursuant to its March 16, 1973 Final Judgment of Permanent Injunction. The motio was originally returnable on January 22, 1976 and was adjourned for one week to January 29, 1976. I respectfully request that, for the reasons discussed below, the motion be further adjourned.

3. One of the primary reasons given by the ICC shareholders seeking to intervene in support of their motion is that "any threat that Vesco influence an election of a board of directors of ICC has been removed". The basis for this assertion is this Court's August 22, 1975 Decision in the action entitled International Controls Corp. v. Robert L. Vesco et al., (73 Civ. 2518) which directed Vesco and Vesco & Co. to turn over all of their ICC stock to the receiver appointed by this Court. However, to date, said stock has not been turned over to the receiver and Vesco & Co. has taken an appeal seeking to overturn the Court's August 22, 1975 Decision in this regard. Briefs have been submitted in connection with that appeal and I am informed that the appeal will be heard at the end of February.

4. Although I am not suggesting that ICC will consent to the relief requested in the motion should the Court of Appeals affirm this Court's August 22, 1975 Decision, in that there would appear to be compelling reason why the relief requested should not be granted, I respectfully submit that the outcome of the appeal is highly relevant to the questions presented on the instant motion. Since the decision on appeal will be rendered in the near future, I request that the Court adjourn the presently pending motion to a date subsequent to the determination of the appeal

5. In addition, the issues presented by the instant motion, which seeks a major modification of this Court's March 16, 1973 Final Judgment and might well have a serious effect upon continued compliance with that judgment, requires, I respectfully submit, serious consideration by Special Counsel, the ICC Board of Directors and the Securities Exchange Commission. The granting of the adjournment requested will permit these issues to be fully explored and considered.

6. I therefore, respectfully request that the motion to intervene be adjourned to a date 20 days following the decision of the Court of Appeals in the above referred to appeal.

Milton S. Gould

Sworn to before me this
day of January 1976.

AFFIDAVIT OF EDWARD BRODSKY SWORN TO ON JANUARY 29, 1976

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

---------------------------------------x

SECURITIES AND EXCHANGE COMMISSION, :
Plaintiff, :
- against - :
ROBERT L. VESCO, INTERNATIONAL CONTROLS CORP., et al., :
Defendants. :

---------------------------------------x

72 Civ. 5001 (CES)

AFFIDAVIT IN OPPOSITION TO APPLICATION FOR AN ADJOURNMENT

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

EDWARD BRODSKY, being duly sworn, deposes and says:

I am a member of the firm of Goldstein, Shames & Hyde, attorneys for the intervening petitioners in the above captioned case. This affidavit is submitted in opposition to the affidavit of MILTON S. GOULD, seeking an adjournment of petitioners' motion for intervention in the captioned case for an order directing that a meeting of the shareholders of International Controls Corp. ("ICC") be called as soon as possible for the purpose of electing directors.

Mr. Gould seeks an adjournment until 20 days following the decision of the Court of Appeals in International Controls Corp. v. Robert L. Vesco et al., (73 Civ. 2518). Mr. Gould also states that "there would appear to be compelling reason why the relief requested should not be granted . . . " even if the Court of Appeals affirms this Court's August 22, 1975 decision.

ICC has been run under court supervision since March, 1973, almost three years, and there has been no annual meeting of ICC shareholders since 1972. Surely three years is long enough for any group of people to put a company in the position where its management may be returned to the shareholders. If Mr. Gould's application is granted, there will be an additional delay of an uncertain period of time before the Court of Appeals decides the case. In addition, no matter which way the case is decided, there may be a petition for certiorari filed and for the same reasons given in Mr. Gould's application it is anticipated that a further adjournment of indefinite duration will be requested.

Mr. Gould also refers to unstated additional reasons why the relief we are seeking should not be granted. Those reasons should be set forth by the people now running the company as soon as possible. They should be required promptly to state what, after a period of three years, are the "compelling" reasons why ICC should continue to be run under court supervision rather than by directors chosen by the shareholders.

For the reasons stated above the application made by

Mr. Gould for what amounts to an adjournment for an indefinite amount of time, should be denied.

Sworn to before me this

29th day of January, 1976.

Jeffrey I. Klein

JEFFREY I. KLEIN
NOTARY PUBLIC, STATE OF NEW YORK
No. 41-2141160
Qualified in Queens County
Certificate filed in New York County
Term Expires March 30, 1977

ORDER OF HON. CHARLES E. STEWART DATED JANUARY 30, 1976

(27)

A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RECEIVED CHAMBERS JUDGE STEWART JAN 30 1976

--x

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, : 72 Civ. 5001 (CES)

-against- :

ORDER

ROBERT L. VESCO, INTERNATIONAL CONTROLS CORP., et al., :

Defendants. :

--x

DISTRICT COURT FILED FEB 3 1976

A motion having been made herein by certain shareholders of International Controls Corp. seeking an order pursuant to Rule 24 of the Federal Rules of Civil Procedure permitting them to intervene in this action and directing that a meeting of the shareholders of International Controls Corp. be called as soon as possible for the purpose of electing directors.

AND defendant, International Controls Corp. having requested an adjournment of said motion until 20 days following the decision by the Court of Appeals in the appeal pending in the action entitled International Controls Corp. v. Robert L. Vesco et al. (73 Civ. 2578).

NOW upon reading and filing the affidavit of Milton S. Gould sworn to January 28, 1976 in support of said application, and the affidavit of Edward Brodsky sworn to January 29, 1976 in opposition to said application: it is hereby

ORDERED that the return date of the above referred to motion be, and the same hereby is, adjourned to 20 days following the determination [illegible] above referred to appeal.

DATED: New Yo [illegible]
January [illegible]

U.S.D.J.

AFFIDAVIT OF ALLEN M. SHINN SWORN TO ON JANUARY 20, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- -X 72 Civ. 5001 (CES)

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

AFFIDAVIT

ROBERT L. VESCO, et al.,

Defendants.

- -X

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

ALLEN M. SHINN, being duly sworn, ~~deposes and says~~:

1. I am President, Chief Executive Officer and a member of the Board of Directors of International Controls Corp. (the "Corporation"). I make this affidavit in order to present the views of the Board on the application by shareholder Malhas to compel a meeting of the common shareholders of the Corporation.

2. This Court's Final Judgment of March 16, 1973 placing the Corporation under the guidance of a Court appointed Board and appointing Special Counsel was made upon application of the Securities and Exchange Commission ("SEC") for the appointment of a receiver for the Corporation. The remedy of Special Counsel and a Court appointed Board was consented to by the Corporation because of the adverse effect the appointment of a receiver would have had upon the going businesses operated by the Corporation.

3. The application of the SEC for a receiver was based on allegations and supporting facts submitted by the SEC to the effect that the former management of the Corporation (the "Vesco management") had been engaged in violations of the Securities Exchange Act of 1934 and that these violations resulted in injuries to the Corporation, its shareholders and the investing public. Further, the SEC alleged that the Corporation had been used by the Vesco management as a vehicle for the purpose of acquiring and exercising control over Investors Overseas Services, Ltd. ("IOS"), its subsidiaries and affiliates and misappropriating the assets of said companies and the mutual funds managed by them. The SEC emphasized in briefs submitted to this Court the dual aspect of the Corporation's posture. On the one hand, it had been wronged, and at the same time it had been used as a "vehicle" for injuring other persons. Our obligation as Court appointed directors was not merely to manage its affairs for the benefit of the holders of its common stock, but to aid in disclosure, regularization of operations and assertion of claims for the benefit of all security holders, creditors and persons who had been injured by reason of the matters alleged in the SEC complaint much the way a receiver would have acted if a receiver had been appointed.

4. With respect to the duration of our tenure, the Final Judgment provided:

> "The board of directors appointed pursuant to this paragraph shall hold office until further order of this Court upon application of plaintiff Commission and until the shareholders of International Controls have elected a new board of directors in compliance with the provisions of the Securities Exchange Act of 1934. No individual director appointed

> pursuant to this provision shall be discharged or replaced or any additional directors be appointed or elected except upon application to this Court by plaintiff Commission in accordance with the provisions of this paragraph."

5. As can be seen from the language quoted, the question of when a new election was to be held was left with the SEC which presumably could act upon information furnished to it by Special Counsel, the Board of Directors and any other party interested in the matter, such as a shareholder. An application by the SEC to this Court is the only method by which the present Board may be replaced. The Judgment makes no provision for a direct application by either the Board or shareholders.

6. The present Board of Directors agrees that the Corporation should be returned to conventional management at the earliest time consistent with the purposes of the Final Judgment. The Board has not applied to the SEC for a return of the Corporation to shareholder elected management up to the present time because it has been the Board's belief that a number of important matters ought to be accomplished prior to such a return. I will list these and then proceed to a discussion of them:

(i) Receipt of the report of Special Counsel in relation to investigations conducted by him pursuant to the Final Judgment.

(ii) Elimination of the Vesco management as any possible controlling influence in the Corporation and realization of the value of the shares of the Corporation formerly held by Vesco or his nominee.

(iii) Disposition of the claims asserted against the Corporation arising from its having been involved in the affairs of IOS.

(iv) Disposition of the class action against the Corporation arising from the alleged misrepresentations and omissions in its prior financial statements.

(v) Resolution of the problem of captive minority interests existing in certain of the Corporation's operating subsidiaries.

Before proceeding to discuss each of the above, I wish to make it clear that the Board does not believe that the Corporation should remain under a Court appointed Board indefinitely while the above problems are sought to be resolved. Certain of the claims referred to above could take years to dispose of if litigated in the ordinary course. However, it is our belief that there is at least a substantial possibility, if not a probability, that the matters referred to above can be disposed of within the near term (viz: under a year) and that the chances of resolving these matters under a Court appointed Board are substantially better than if returned to a Board representing only the present common shareholders.

A. Special Counsel's Report

7. As a result of the Corporation's involvement in the affairs of IOS, claims have been asserted against the Corporation by IOS and its formerly controlled entities which the claimants have asserted in writing amount to "many times the net

worth" of the Corporation. In view of these claims, the facts relative to ICC's involvement in IOS represent the principal matters upon which the Corporaton's fortunes and, indeed its very survival may depend.* It is, therefore, necessary for the Board of Directors to have a definitive report of Special Counsel with respect to said facts in order that the Board may appraise the position of the Corporation with respect thereto or for the purpose of seeking to compromise or litigate the IOS claims. It is also our view that a shareholders' meeting should not be held until Special Counsel makes his report since said report would be the most responsible source of information on the subject of the IOS/ICC relationship for preparation of the proxy material.

8. As the Court knows, the IOS situation is unique for its size and complexity and has the further complication of involving a number of different sovereign jurisdictions. These circumstances, together with the fact that the principal actors in the situation are in a fugitive or quasi-fugitive status in remote places, could well justify the extended period of time taken by Special Counsel in marshalling all of the facts relating to the activities in question. The Board and its General Counsel have kept abreast of the work of Special Counsel and have not been hampered in their dealing with these matters by the lack of a formal report. Discussions with the IOS claimants and the Greenberg claimants have proceeded on an informed basis notwithstanding the lack of a written formal report. However, a formal and definitive report will be required by the Board either (i) as an official basis for any disposition by settlement of the claims made against the Corporation by the IOS entities or the Greenberg

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*It is the reason why the Corporation's financial statements do not receive an opinion from its auditors.

class, or (ii) as a factual presentation to be made to the shareholders of the Corporation if the Corporation is to hold a shareholders' meeting. Special Counsel has informed the Board of Directors that he expects to have a draft of his report ready by the end of this month and a completed report sometime during the Spring of this year. In the Board's view, such a report is essential to the holding of any shareholders' meeting for the election of directors.

B. Elimination of Former Management as Controlling Persons and Realization of the Value of their Stock

9. Prior to the appointment of the present Board of Directors and Special Counsel 122,463 common shares of the Corporation were owned of record by Robert Vesco. An additional 846,380 shares were owned by Vesco & Co., a Vesco family corporation. The present Board considered it part of its function to prosecute the Corporation's claims against Mr. Vesco and eliminate the possibility of Mr. Vesco exercising a controlling influence in the affairs of the Corporation. To that end, default judgments were taken against Mr. Vesco in the aggregate amount of $5,422,466.72. By further decisions of this Court, it has been held that the 846,380 shares of the Corporation owned by Vesco & Co. may be levied upon to satisfy the said judgments against Vesco. By order dated August 22, 1975, this Court appointed a receiver and directed that Vesco and Vesco & Co. present the certificates for the shares owned by them in the corporation to a receiver for further proceedings in satisfaction of the judgment obtained against Mr. Vesco. To date, they have not done so.

10. On December 22, 1976, pursuant to the provisions of the Court's order dated August 22, 1975, at the direction of the Corporation, its transfer agent cancelled the certificates issued in the name of Robert Vesco and Vesco & Co. on its records and has issued a new certificate for the said shares to the receiver appointed under the Court order who, upon receipt of said certificate, redeposited same with the transfer agent as security to protect the transfer agent against the possibility of double claims for the same stock. An agreement between the Corporation and the transfer agent provides that if for any reason the old certificates issued to Vesco and Vesco & Co. are presented to the transfer agent for transfer the Corporation will be notified and will have thirty days in which to secure a court order enjoining such transfer and attaching or otherwise seizing the certificates in question.

11. Although the Board and counsel believe that the steps being taken will ultimately prove effective for the purpose of levying upon Mr. Vesco's interest in the Corporation, the problem of eliminating his stock interest and realizing upon its value cannot be said to have been finally resolved while the original Vesco certificates remain "outstanding." If a shareholders' meeting were to be held, the question of the voting power of the shares formerly held by Vesco and his nominee (approximately 25% of the common shares) could raise difficult issues. Apart from the possibility that there may be a claim by Vesco or his assignee to the right to vote these shares,

there is the question of whether the shares should vote at all when held by the receiver. The Board and counsel are considering programs for the solution of this problem involving judicial sale of the shares under the judgment or liquidating them at fair value in a merger and reorganization of the Corporation and its operating subsidiaries. (See infra, p.10) In either case, the Board's objective would be to realize the maximum value of these shares in satisfaction of the Corporation's judgments against Vesco while at the same time eliminating Vesco as a possible controlling shareholder of the Corporation.

12. The Board has deferred attempting to hold a judicial sale of the Vesco shares because the price which said shares would bring under present conditions would be subject to a very deep discount because of the IOS and Greenberg contingent claims against the Corporation and the lack of an auditors opinion for its financial statements. This problem could be resolved within the next year if negotiations with the IOS group have a favorable outcome. Obviously, it would be better to have a shareholder's meeting with the Vesco-owned shares either eliminated by liquidation or sold to a responsible purchaser in satisfaction of the judgments than to have a shareholders' meeting at a time when the possibility is still extant of Vesco or some nominee trying to exercise the voting power of these shares.

C. The IOS Claims

13. At the present time, the Corporation's financial statements do not carry an opinion by its auditors. The principal reason for the auditors denying such an opinion to the Corporation is the claims made against the Corporation arising from its involvement in the IOS matters. In addition to IOS, Ltd. (parent company), there were numerous IOS subsidiaries, affiliates and controlled entities such as mutual funds which were directly involved in the various transactions engineered by Mr. Vesco, Mr. Le Blanc and their associates. These entities have advised the Corporation that their claims against the Corporation aggregate "many times" the Corporation's net worth. Using the good offices of Special Counsel and the officials of the SEC, who are members of the Intergovernmental Committee of IOS Liquidators, a negotiation has been initiated to determine whether it is possible that these claims can be settled. In so doing, the Board has principally focused on the value of the Vesco stock in the Corporation as something that might be utilized in a settlement of the IOS claims. It will be appreciated that the very settlement of the claims would measurably enhance the value of the stock. This reciprocal effect has been pointed out in conducting the negotiations with the IOS group.

14. Although initially it was difficult to get the various receivers and liquidators for IOS entities to negotiate as a group and although such negotiations still remain difficult because of the dispersion of the various claimants, said negotiations have made progress in recent months. At the request of said claimants, the Corporation has executed extensions of the

statute of limitations* and its counsel have suggested to the IOS group a specific proposal for the disposition of these claims.

D. Contingent Claims Arising from Prior Financial Statements

15. There is now pending in this Court a class action entitled *Greenberg* v. *Vesco, et al*. in which plaintiff sues on behalf of himself and all persons who purchased shares of the Corporation in reliance on the Corporation's financial statements which allegedly misrepresented the assets and earnings of the Corporation. The alleged misrepresentations relate to the value of the Corporation's holdings of IOS warrants, common stock or property received in exchange therefor. At the present time, the attorneys for plaintiffs are reviewing the stock transfer records of the Corporation to determine the size of their class. Special Counsel has been studying the question of the adequacy of the financial presentations made by the Corporation which are the subject of the *Greenberg* class action. Special Counsel is also in communication with the Corporation's former auditors with respect to the Corporation's assertion that the said auditors should bear the liability for claims arising from the improper presentation of the Corporation's financial statements. When the plaintiff in the *Greenberg* action has completed his measurement of the size of the class, an attempt will be made by the parties to dispose of the case without prolonged litigation.

E. Minorities in the Operating Subsidiaries

16. Under Vesco management, the Corporation acquired

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*One of the claimants (IIT) has already sued the Corporation in this Court. IIT has indefinitely extended the Corporation's time to answer while the negotiations are pending.

its two principal operating subsidiaries, Datron Systems, Inc. and All American Industries, Inc. The Corporation's ownership of these subsidiaries is less than 100%. A 10% minority interest exists in Datron and a 19% minority interest exists in All American Industries, Inc. These minority interests have no effective voting power and in the case of Datron, the common stock taken at the book value after allowing for the debentures and preferred stock owned by the Corporation, has a deficit book value. Fairness to these minorities and good order would ordinarily suggest that they be given an opportunity to become stockholders in ICC on fair terms. Since the IOS claims do not presently apply to the operating subsidiaries and do apply to ICC, it would be unfair at the present time to ask minority shareholders of said subsidiaries to take ICC stock in exchange for their minority positions in the subsidiaries. However, if the IOS claims can be resolved, one of the positive consequences would be the opportunity to give Datron and All American Industries stockholders the chance to either receive cash or the Corporation's shares for their securities in a merger among the three companies.

17. As can be seen from the above discussion, many of the matters affecting the Corporation turn on the possibility of reaching a negotiated settlement with the IOS claimants. It is the Board's belief that the Corporation's interests would best be served by having a Court appointed Board to take the difficult, if not extraordinary measures, necessary to accomplish the near term objectives set forth above. This is because it would be

acting under the protection of the Court in the interests of all concerned persons not merely the common shareholders. Moreover, the present directors, who are fully familiar with these problems and their interrelationships, have a better chance of achieving these goals than new directors.

18. If these objectives cannot be achieved, then a judgment must be made as to whether the claims against the Corporation by outsiders are so clearly meritorious and substantial as to prevent the Corporation from being turned over to its common shareholders and require instead that it be placed in some form of receivership in which creditors' rights would be protected while the various claims and their priority are being adjudicated. At the present time, the Board does not have reason to believe that the latter situation is applicable and it expects that the Corporation could be returned to shareholder control even if the massive claims against it cannot be disposed of. However, until Special Counsel's report has been received and until the IOS claimants present all their claims in detailed written form, the Board cannot form a final opinion.

19. Summarizing the Board's views with respect to the present application: (i) we are advised that under the Final Judgment a shareholders' meeting can be held only upon an application to this Court by the SEC, (ii) we have deferred requesting that the SEC make such an application in order to achieve the objectives set forth in this affidavit, (iii) we believe that there is at least a fair chance that these objectives, or some of them, can be achieved during the present calendar year and that the chances of achieving them would be adversely affected by a

change in the Board, (iv) if it appears to us that the chance of achieving these objectives has been extinguished beyond reasonable possibility, we will advise the SEC and make such recommendation as we deem appropriate on the subject of how management of the Corporation should be handled for what may be a long period of years in which the various problems will either have to be litigated to a conclusion or resolved simply by the passage of time.

20. The Corporation has not suffered economically under the Court appointed Board. Indeed, it has revived and prospered. We have disposed of several unprofitable operations and have turned other operations which were marginal or losers into substantial profit making activities. The Corporation's long term debt has been substantially reduced. Net worth has substantially increased notwithstanding major write-offs of goodwill. There is an excellent operating management and the Board has worked to keep abreast of and guide its activities. Although the Corporation is engaged in a major tax controversy with the Internal Revenue Service, management believes that its position in that controversy is correct. As a result of operations under the present management, substantial funds have been earned and accumulated, some of which may be used in resolving the Corporation's legal problems.

21. It is of some concern to the Board that the investing public may be ignoring the very serious contingent liabilities affecting the Corporation and purchasing the stock of the Corporation on the basis of its earnings performance and apparent liquidity. The installation of a Board elected by common shareholders would naturally tend to foster a management attitude

oriented principally toward improving the market prices of its common stock. The Corporation's shares having been traded in the area of $2 per share, any movement upward of $1 or $2 a share could mean very substantial profits for speculators. I am advised that there have been recent trades at $3. The liquidity of the Corporation is also an attribute which might tend to attract irresponsible elements. (A large proportion of the Corporation's stock is in street name. Other blocks of shares appear to be in the hands of Vesco related entities (e.g., Columbus Trust, Dodd, Shirley Bailey), either directly or in street names). The Board believes that before the Corporation is returned to that kind of an investment environment, every attempt should be made to resolve its substantial legal problems so that the prices of its shares do not fluctuate based on inadequate or uninformed appraisals of the various contingencies affecting it.

Allen M. Shinn
Allen M. Shinn

Sworn to before me this
20th day of January, 1977.

Richard L. Spinogatti

RICHARD L. SPINOGATTI
Notary Public, State of New York
No. 60-4[illegible] Co
Certificate filed in [illegible] County
Commission Expires March 30, 1978

AFFIDAVIT OF DAVID M. BUTOWSKY SWORN TO ON JANUARY 20, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION, :
Plaintiff, :
-against- :
ROBERT L. VESCO, et al., :
Defendants. :

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72 Civ. 5001 (CES)

AFFIDAVIT

STATE OF NEW YORK)
:
COUNTY OF NEW YORK)

DAVID M. BUTOWSKY, being duly sworn, deposes and says:

1. This affidavit is prepared at the request of the Court for the views of Special Counsel on the pending motion to intervene in this case in order to compel the scheduling of a shareholders meeting of International Controls Corp. ("ICC").

2. I am Special Counsel to ICC appointed by this Court on March 23, 1973 to carry out the duties set forth in the Final Judgment of Permanent Injunction and Appointment of Special Counsel and Directors (International Controls Corp.) ("Consent Judgment").

3. I oppose the holding of a shareholders meeting at this time because, as set forth more fully below, the duties imposed upon Special Counsel and the directors by the Consent Judgment have not been completed.

The Investigation and Report of Special Counsel

4. Special Counsel is required to complete a "full

investigation" and to report thereon to this Court and to the SEC. Although the investigation has now been substantially completed a number of critical steps remain which should be completed within the next several months. Special Counsel has commenced drafting of certain segments of his report; others are now complete, and the remainder can not be completed until the completion of the remaining steps of the investigation. The report of Special Counsel is a critical document.

(i) It provides the basis for the proxy statement required to be filed with the SEC and distributed to shareholders before any shareholders meeting may be held. Also relevant to the proxy statement and a subject of my responsibility is the financial condition of ICC which is required by the Consent Judgment to correct any prior financial statements which were either false or misleading and prohibited thereby from using any financial statement which is false and misleading.

(ii) It is inextricably entwined in settlement discussions between ICC and claimants against ICC for amounts which would be material to shareholders' assessments of ICC as an ongoing business.

(iii) It will set forth the factual and legal basis for claims to be asserted, abandoned or settled by Special Counsel which new directors could be free to determine not to assert, abandon or settle.

The Consent Judgment provides that Special Counsel (¶(3)(b)):

> "... shall consult with plaintiff Commission and the board of directors of International Controls in the resolution of all claims International Controls may have. He shall neither decline to pursue any claim ... nor settle any claims, against the recommendation of plaintiff Commission and without the approval of this Court;"

5. There is as yet no final resolution of the motion by ICC to seize the shares of ICC stock in the names of Robert L. Vesco ("Vesco") and Vesco & Co. in partial satisfaction of ICC's judgments against Vesco. Appeals currently are pending from this Court's orders to the Second Circuit Court of Appeals and to the United States Supreme Court. No shareholders meeting should be held while Vesco may still be in a position to vote himself back into operational control of ICC. Moreover, there are other large blocks of ICC common shares held in street name at various broker-dealers. Prior to the holding of a shareholders meeting it will be necessary:

(i) to take appropriate steps to determine the beneficial ownership of such shares; and

(ii) to ensure that any persons who have formed a group for purposes of seeking control of ICC are not acting directly or indirectly for Vesco and any of his associates.

David M. Butowsky

David M. Butowsky

Sworn to before me this
day of January, 1977.

Notary Public

AFFIDAVIT OF NATHAN M. FUCHS SWORN TO JANUARY 25, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION,	:	72 Civ. 5001 (CES)
Plaintiff,	:	AFFIDAVIT IN SUPPORT OF MOTION FOR INTERVENTION
-against-	:	
ROBERT L. VESCO, et.al.,	:	
Defendants.	:	

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STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

NATHAN M. FUCHS, being duly sworn, deposes and says:

1. I am a member of the firm of Underweiser & Fuchs, attorneys for the intervening petitioner in the above-captioned case. This Affidavit is submitted in response to Affidavits by Allen M. Shinn and David M. Butowsky, Esq., opposing the holding of a shareholders' meeting to elect directors of International Controls Corp. ("ICC").

2. This motion has been pending for more than one year. It was originally returnable on January 22, 1976, but was adjourned upon request of ICC's counsel, to await disposition of an appeal involving cancellation of ICC stock owned or controlled by Vesco (the "Vesco stock"). Since then, various decisions on the matter have been rendered by this Court and the Court of Appeals. Suffice it to say, the Vesco stock consisting of 968,843 shares has been effectively cancelled and nullified. Any contention that such stock would, or could, be voted at a meeting of shareholders is undeserving of serious consideration.

Moreover, even though the occurrence of such a situation is at best remote, an Order of this Court could provide the means for dealing with such a situation, if it arose.

3. The opposing Affidavits of Allen M. Shinn, the President and a director of ICC, and David Butowsky, Esq., Special Counsel, maintain that all activity concerning a shareholders' meeting must remain at a standstill until Special Counsel submits his report. We cannot avoid the fact that this report was commissioned almost four years ago, long enough even under the most difficult of circumstances. Special Counsel apparently believes that he is not obliged to explain why no report has been forthcoming after such an inordinate length of time, nor to state with reasonable certainty when it will finally be available.

4. Perhaps valid reasons exist to account for the delay. In that case, this Court should initiate procedures for the holding of a shareholders' meeting, while at the same time fixing a deadline for submission of the report. Another alternative would be to require Special Counsel's mandate to continue, irrespective of any election of new directors by the shareholders. As an officer of the Court, Special Counsel could continue to function, independent of any elected Board. In any event, the rights of ICC's shareholders should not be suspended any longer.

5. All of the other arguments opposing the shareholders' meeting are directed to the proposition that the present directors of ICC are more qualified to deal with the remaining corporate problems than any directors which the shareholders might elect. This type of argument is standard when the

reign of any entrenched Board is being challenged. However, even if every director of ICC was immeasurably more qualified than any director who might be chosen by the shareholders, it would not transcend the unqualified right of shareholders to choose their own destiny through election, not selection.

6. There has been no annual meeting of ICC since 1972 resulting in the complete disenfranchisement of more than 10,000 shareholders. The purpose of the quasi-receivership established was primarily twofold: to prevent the further dissipation of ICC's assets; and to wrest control from Vesco and sterilize his stock so that neither he nor his associates would be able to regain control. These purposes have clearly been accomplished.

7. Certainly, the operating results of ICC hardly warrant a receivership. In 1975 its earnings amounted to almost $4,000,000. Moreover, in ICC's 1975 Annual Report to shareholders, Mr. Shinn stated:

> "During the past three years, the Company has gone from an extremely difficult and tenuous situation to a strong operating posture.
>
> ICC's operations proved resistent to adverse trends during the recession of 1974 and 1975 and should fare well during the improving economic situation that began in late 1975 and continues in 1976."

8. In opposing this application, the selected Board of ICC and Special Counsel have resorted to arguments which are clearly specious. For example, Mr. Shinn states:

> "The installation of a Board elected by common shareholders would naturally tend to foster a management attitude oriented principally toward improving the market prices of its common stock."

As a reason for not holding a shareholders' meeting, this argument is ludicrous. Furthermore, we are not aware that appreciation of one's investment is an improper objective in our society.

9. In a similar vein, Special Counsel requests this Court to ensure that persons "who have formed a group for purposes of seeking control of ICC are not acting for... Vesco" [emphasis supplied]. This statement intends to create an inference which is totally unwarranted. If Special Counsel possesses information tending to show that any group has been formed to seek control of ICC, especially a group which might be acting for Vesco, then he should furnish this Court with evidence thereof immediately.

10. If any party in this proceeding is sincerely concerned about the Vesco stock or the integrity or motives of proposed directors, their concern can be alleviated through an appropriate Order of this Court. This Court has the necessary authority to impose adequate safeguards in any Order which provides that a shareholders' meeting be held, including the Court's approval of any proposed directors.

11. In an analogous case, the Court supervising the receivership of Fifth Avenue Coach Lines, Inc. ordered a shareholders' meeting to be held, but refused to terminate the receivership until it was satisfied that stockholders' protection was no longer necessary. In that case, Judge McLean stated:

> "The holding of a stockholders meeting will not ipso facto terminate the receivership. That will continue until the court believes it to be no longer necessary for the stockholders' protection." Securities and Exchange Commission v. Fifth Avenue Coach Lines, Inc., Civil No. 67-4182 (S.D.N.Y., filed January 19, 1970).

This Court could, if it chooses, adopt the same procedure in this case.

12. Even Mr. Shinn recognizes that a shareholders' meeting of ICC would never be held, if every problem concerning the company was required to be resolved beforehand. Clearly, our adversaries are not committed to having a shareholders' meeting held. Their goal is to prevent a meeting for as long as possible. This Court should not countenance any further attempts to negate shareholders' rights.

13. There are other contentions that deserve a response. Mr. Shinn argues that the Vesco stock must be resold before a shareholders' meeting can be held and that only the present Board is capable of realizing the maximum value on such a sale. On the other hand, he contends that the stockholders do not own the company and the common stock may have no value. Such assertions, which are made solely for the purpose of defeating this application, do nothing but undermine the ability of this Board to obtain fair value for the common stock from an investor.

14. The possible sale of a controlling block of stock at depressed prices is only one of many major policy decisions being made by a Board which is virtually immune from liability for its actions. The stockholders of ICC, who have absolutely no voice or standing at this time, must be allowed to participate in such decisions through their elected representatives.

15. Another corporate matter which Mr. Shinn believes that only this Board is capable of handling is the negotiation of outstanding claims with IOS and other creditors. Despite his confidence in the ability of this Board, the shareholders are entitled to elect the Board of Directors, which would be equally

capable of selecting qualified representatives to negotiate and settle any and all matters involving ICC.

16. Mr. Shinn also alleges that the present ICC Board represents interests in addition to those of the common stockholders while an elected Board would represent "only" the common shareholders. This statement ignores basic corporate law. Fiduciary obligations of an elected Board would flow not only to the stockholders, "but the entire community of interests in the corporation - creditors as well as stockholders." Pepper v. Litton, 308 U.S. 295, 307; International Controls Corp. v. Vesco, et al., 490 F. 2d 1334, 1346 (2d Cir., 1974).

17. The statements made by Mr. Shinn concerning ownership of the company and the value of the common stock do little to inspire shareholder confidence in this Board. Since no member of the Board has any investment in the Company and is virtually immune from liability, only the stockholders' investments are placed in jeopardy by such reckless statements.

18. The argument that this Court lacks the power to order a shareholders' meeting, absent application by the SEC, is wholly without merit. The Judgment dated March 16, 1973, provides:

> "8 IT IS FURTHER ORDERED AND ADJUDGED AND DECREED that the Court shall retain jurisdiction of this matter for the purpose of enforcing and amending this Final Judgment."

The sincerity of this contention is questionable since it was not even raised in the request made to this Court for adjournment of Petitioner's motion, which resulted in a one year delay.

19. Those opposed to a shareholders' meeting propose no date for a shareholders' meeting, for it is not in their self-interest to do so. We also recognize that it is easier to preserve the status quo, especially when no actual harm to the shareholders can be shown. We strongly maintain, however, that there is no further justification to deny the shareholders of ICC the right to select representatives of their own choosing. We therefore request this Court to fix a date for holding a shareholders' meeting and to impose any reasonable conditions which are necessary for the protection of all parties.

Nathan M. Fuchs
NATHAN M. FUCHS

Sworn to before me this
25th day of January, 1977.

Ira H. Zuckerman

IRA H. ZUCKERMAN
Notary Public, State of New York
No. 41 4604083
Qualified in Queens County
Commission Expires March 30, 197

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TRANSCRIPT OF HEARING DATED FEBRUARY 18, 1977

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION, :

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Plaintiff

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vs. 72 Civil 500 (CES)

:

ROBERT L. VESCO, ET AL,

:

Defendants

:

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Before:

Hon. Charles E. Stewart,

District Judge

New York, N. Y.

February 18, 1977 - 12.50 P.M.

APPEARANCES:

Gregory C. Glynn, Esq. and
Frederic M. Krieger, Esq.,
Attorneys, Securities and Exchange Commission

Gordon, Hurwitz, Butowsky, Baker, Weitzer & Shalov, Esqs.,
Special Counsel to International Controls Corp.
By: David M. Butowsky, Esq., of Counsel

Shea, Gould, Clemenko & Casey, Esqs.,
Attorneys for International Control Corp.
By: Sheldon D. Camhy, Esq., of Counsel

Spengler, Carlson, Gubar, Churchill & Brodsky, Esqs.,
Attorneys for Shareholder Intervenors
By: Edward Brodsky, Esq., of Counsel

THE COURT: Does somebody want to tell me about this motion?

MR. BRODSKY: Yes, your Honor. My name is Edward Brodsky, your Honor, and I appear on behalf of shareholders of International Controls representing approximately 180,000 shares of stock who are seeking to intervene in this action for the purpose of asking your Honor to direct that there be a shareholders meeting of International Controls as soon as possible so that the shareholders can elect a slate of directors and that the company can be run by directors who are selected by shareholders rather than those selected by the Court.

As your Honor knows, there hasn't been a shareholders meeting of International Controls since 1972 and your Honor appointed directors in March of 1973. So that the company has been run by Court appointed directors for approximately four years.

Our position is that there is no more danger of looting of this company by Mr. Vesco. Apparently the company is making money and we say that it is high time that the shareholders rather than the Court elect a board.

As I understand it, there are in the papers filed by Mr. Camhy and Mr. Butowsky four reasons which they give as to why there should not be a shareholders meeting at this time, and if I may I would like to adress myself very briefly to each one of those reasons.

First, they say that they have not yet - in the case of Mr. Butowsky he is not prepared, and in the case of Mr. Camhy he has not received a report that Mr. Butowsky is supposed to render regarding the investigations which have been conducted by him.

Your Honor, I am not here to criticize Mr. Butowsky, whom I have known for many years, but it seems to us, at any rate, that four years ia a long time to prepare a report and that, as I understand it, the reason for the necessity of the report, according to the papers, is so that Mr. Camhy and the board can properly assess the nature of the claims which are being made against International Controls.

Now, it just seems to me, your Honor, that it doesn't take four years to assess the nature of the claims being made against the company. Claims are being made against companies every day of theweek, and for the purposes of writing proxy material or an annual report lawyers can read pleadings, lawyers can understand facts, and lawyers every day of the week are writing letters to independent accountants stating the nature of claims.

Now, I just think, your Honor, that it shouldn't take this kind of time for a report to be prepared outlining the nature of claims against the company in order for the shareholders, when they are asked to vote, to understand the nature of these claims.

I can't imagine why it should take any length of time for lawyers who are competent, and I know these people and they are competent, to be telling the accountants what the nature of these claims are.

They also say that they are fearful that the ghost of Mr. Vesco will rise again in this matter. Your Honor, if I understand the facts correctly, the Vesco shares have been cancelled, in effect, as a result of an order of this Court. New shares have been issued.

What Mr. Camhy says in his papers is that maybe at some time in the future they may sell these shares to somebody else. Well, maybe they will and maybe they won't. But that is no reason not to have a shareholders meeting.

They also say, your Honor, that in this state of the record, because Mr. Vesco hasn't physically turned over his shares to the corporation, despite the fact that his shares have been cancelled they say that perhaps if there is a meeting Mr. Vesco or somebody on his behalf will come in with those physical certificates and attempt to vote that stock.

Your Honor, if that happens, I'm sure that this Court can deal with that problem quickly and effectively. Those shares have been cancelled. The right of the corporation to levy on those shares has been litigated before this Court. It has been before the Court of Appeals.

All of that, it seems to me, is over, and if we are not going to hold a meeting because Mr. Vesco has refused to physically turn over the piece of paper which represents those shares despite the fact that they have been cancelled, that can be an argument that is going to go on forever, because nobody says that in a short time from now Mr. Vesco is going to appear here and deliver his certificates. That is just not going to happen.

So that no matter when there is going to be a shareholders meeting, I suppose Mr. Vesco will still have in his possession those pieces of paper, pieces of paper which I say on this record are meaningless. And if that's going to be a problem, it is always going to be a problem. And if that is a reason to delay a shareholders meeting, we'll be delaying this meeting for all time in the indefinite future, I say, your Honor.

Now, third, they say that certain claims which have been asserted against the corporation arising from the involvement of the corporation in the affairs of IOS have not been disposed of and they are negotiating, attempting to arrive at a settlement of those claims, and they have extended the time for the statute of limitations with respect to those claims.

Now, I don't know why that is a reason to postpone a shareholders meeting. Those negotiations, no matter who is elected to the board, it seems to me can continue in the same way that they are continuing now. A new board may even decide, because of the expertise of the Shea, Gould firm in these matters and Mr. Butowsky, that they should stay on and continue those negotiations.

I am in no position to make that judgment, but I would assume that reasonable people would come to some kind of conclusion like that. But the fact that there are claims being negotiated right now is, again, not a reason to postpone a shareholders meeting.

And, finally, they talk about the disposition of a class action against the company. I understand that there is a class action against the company by its being litigated, and they say in their papers that they are attempting to negotiate a disposition of that. But, again, that is fine; class actions are litigated every day in the week and companies that don't have a board of directors appointed by the Court negotiate settlements or litigate them or dispose ofthem one way or another. And, indeed, your Honor, when there are class actions pending, boards change in the middle of a class action.

Class actions can go on for years, as we know, and the board of directors of a company may be completely different when a class action is concluded from before or that existed at the time the action started. So that is not a reason, at least in my view, for postponing a meeting.

And the last problem that they raise is this: They say there are minority interests in two of the corproations in which International Controls has approximately a ninety per cent interest, and they say that there should be a resolution of the interests of those minority groups because it would be unfair to them to leave them hanging the way they are. They are suggesting that there should be some exchange of perhaps International Controls stock for the stock in these minority corporations held by the people who have minority interests in those corporations.

Well, again, your Honor, I don't know when that problem is going to be resolved. I can't even really tell from the papers the nature of the problem or why Mr.

Camhy feels that it would be fair to make some arrangement with those minority shareholders. Perhaps it would be. He says this isn't the time to do it because there are very substantial claims being made against the company which might wipe out its net worth.

Well, then when is the time to do it? How long are we going to just wait for this?

Mr. Camhy also says, as I just said, that there are these substantial claims made against the company, and if the claims are valid the claims are more than the net worth of the company.

Well, again, that happens all the time with companies which don't have boards of directors which have been appointed by the Court, and the boards of directors, through capable counsel, can deal with that kind of a problem as it can deal with every other problem.

This is not a corporation which is in bankruptcy. If it were, it doesn't belong before this Court. This is not a corporation which is being looted by anyone today. They've had four years to get rid of Mr. Vesco and the problems that he has created.

It seems to me that the main reason why this Court decided to appoint a board and to appoint Mr. Butowsky is because of the influence of Mr. Vesco, because of the looting that he did. Well, that is finished and it just seems to us that whatever they've done in the last four years, this corporation is back on its feet again and it is high time, we say, your Honor, that the corporation be run by a group of people which are selected by the shareholders, which have responsibility to the shareholders. This group of people really don't have any responsibility to anyone right now.

And so I'm asking your Honor to permis us to intervene and to direct that a shareholders meeting be held as promptly as possible.

Thank you, your Honor.

THE COURT: All right. Mr. Camhy?

MR. CAMHY: Your Honor, I am going to address this out of almost a theoretical or law school level for a few moments, because we've all been proceeding on a lot of sophisticated assumptions which perhaps deserve an articulation of the underlying premises.

First, we have here a Florida corporation. Florida corporations are required to have annual meetings. And the customary way of compelling a meeting, if a meeting isn't held timely, is to proceed in Florida to compel a meeting.

Now, the next corollary, or the next consequence of this argument, is that assume that an application were made in Florida, because I'm not going to suggest that Mr. Brodsky has to go to Florida. If such an application were made, somebody would appear and say, "No. This company can't have a meeting because it is in a quasi-receivership, under the control of the United States District Court, having been put there under the powers of the Securities and Exchange Commission."

And presumably some judge in Florida would say, "I understand that," or he would say, "No. The federal law does not supersede my powers."

But I think he would say "Yes, I understand that. You have to go to the Securities and Exchange Commission or to the district court to get that order vacated because the '34 Act takes over here, there having been violations of the Securities and Exchange Act, and the Interstate Commerce power gives that court and that commission supremacy over my power to direct a meeting."

Now, assuming that that premise is correct, and I think it is, you get down to a situation in which a company is not having an annual meeting because a regulatory agency exercising the powers of the government of the United States has interceded with the United States District Court to ask for a receivership, and in disposing of that application for a receivership the agency and the Court and the company in question have consented that in lieu of a receiver the directors be named by the Court, the reason being that the appointment of a receiver would trigger default clauses in various documents and indentures to which the company is a party and hurt the company economically, in ways in which it need not be hurt, in order protect the interests that have to be protected.

So now we have a situation in which we have a board of directors which has been appointed in lieu of a receivership to act as if it were a receiver appointed under the 1934 Act. Now here is this board, and in addition a special counsel has been appointed to act as a prosecutorial and investigative arm of that receivership, whereas the board has been empowered to act as the administrative and managerial arm of that receivership.

Okay. We are now in the federal court and this quasi-receivership, which is acting managerially by a board and prosecutorially and investigatively by a special counsel, is acting and the receivership is on, and we are up to, after three or four years, a very important policy question, first of law and then, second, of policy.

The question is this: The causes for the appointment of the receiver, insofar as certain of the prosecutorial aspects were concerned, were the existence of a management which was the defendant management in the original case, the SEC case, the existence of a Vesco dominated management, the existence of a management which had been demonstrated to be incapable of leading the company consistent with the policies of the 1934 Act and a management which had been demonstrably in violation of that Act. That management is off the scene. A management is in which is the Court's management.

The threat of that kind of continued violation in its exacerbated state which existed in 1973, when this Court appointed the management, that threat has been removed The question then is: Should the receivership continue or not? And the question is pointed towards the reorganizational aspects of receiverships rather than the prosecutorial and investigative aspect of the receivership.

Receiverships do have a double function. Function one is to avoid the illegal source of difficulty, that is, in this case the Vesco management. There is a second function, and that is this: to go beyond the corporate shell and into the underlying properties and the underlying operations of the company in order to study and to reorganize its affairs in order to accomplish the purposes of the '34 Act and assist in giving a retributive or remedial justice to those people who deserve it as a result of the receivership, and to reoganize the company's affairs in such a way that there would be no likelihood of repetition of the illegal act and in such a way as to encourage the purposes of the law by making its documents available, its information available, and doing justice to various interested parties.

In this case, the interested parties are the shareholders of ICC, obviously common shareholders; secondly, a class of preferred shareholders; then there are debenture holders in two classes; then there are people who have been injured by the use of ICC as an instrumentality by its former management.

In this case, the former management, in addition to accomplishing its purposes with respect to IOS and its protected fund directly, also, unfortunately, used ICC for that purpose.

In addition, those same people misappropriated property of ICC. So you have ICC as, first, the victim of some of the depradations of former management and also the instrumentality used by that management to accomplish misdeeds and frauds on strangers.

Now, as a result of the IOS complex of facts, with which I am now relatively familiar and with which I'm sure this Court is unfortunately even more familiar than I, there exists a complex of claims by IOS, its subsidiaries and its managed funds. These claims arise from the fact that during a certain period from August of 1970 until approximately September of 1972 ICC was a factor in the various events which befell IOS and its protected funds.

The aggregate amount of these claims, as analyzed by me, amounts to approximately $120 million. I have to say for this record, and I'm a little sorry that I have to say it, because I do have my people up there who are going to be suing ICC, that there are several of those claims that I have to take relatively seriously, your Honor.

Now, I don't want to get into it in detail on this record because we are going to have to defend those claims some day and some day I'm going to have to attac the validity of those claims. But at least for purposes of this litigation I want to say that there are claims and claims. Many of them, you know, I know just how I would defend. But there are one or two of them there, your Honor, which I do not quite know how I am going to defend, although I', sure they will be defended.

Now, those by themselves amount to meaningful amounts of money in terms of the net worth of this company. In addition to that, there are the shareholders who purchased shares of ICC in reliance on financial statements of ICC which Vesco and his associates caused to be promulgated by ICC.

Now, these financial statements contain certain representations about the value of IOS related assets which tended to encourage investors to buy ICC at certain prices which those investors now claim were inflated, and improperly inflated, by false encouraging statements about the value of the ICC assets.

All right. So now we have two more classes of people that are interested in this receivership. We have claimants with claims of about $120 million against a company that has assets of $12 million net, and we have now class action shareholders who also say that they are entitled to the protection of this receivership because they were destroyed by violations of the 1934 Act, even as much of the IOS claimants were.

In addition to that, you've got the creditors and you've got the Internal Revenue Service.

Now, were it not for the intervention of the Securities and Exchange Commission, a company in this kind of straits would, in the hands of common stockholders, fend off all while they conducted long term litigation, while the stock continued to trade, and eight or ten years later, you know, they would either survive or they would be demolished by their creditors; possibly one or more creditors would move for possessory rights in the nature of attachments, and if they could make a strong enough prima facie showing in seeking attachments those creditors might even be able to tie up the assets and the funds of the company and put it into a receivership much like the one that it is in now.

So what we are dealing with is a receivership which was created by the Securities and Exchange Commission in recognition of the fact that there were many diverse interests to be protected, some of whom, on the basis of the strength of the showing that they had seen, would be entitled to possessory remedies in respect to the assets of the corporation. And that is why we are in the receivership.

So the issue now which we are confronted with is: Should this receivership be technically, or rather should it be the kind of passing receivership which occurs when there are some frauds such as management taking too many expenses or management not reporting a payoff, something like that, you know, where you get out the management and then you put in a new management and it is all over, or is this a reorganizational receivership, is this a receivership in which the interests of one group in the property and the assets of the corporation have to be valued against the interests of the other?

Now, in addition to that, we have a number of problems in this receivership. The principal property which we can look to in a prosecutorial or investigative or attacking arm is the stock of Robert Vesco in this company. Now, your Honor is familiar with the fact that we have exercised every conceivable method of reducing our claims against Mr. Vesco to judgment and reducing that judgment to value, and it has ended up with your Honor's determination that we are entitled to reach these shares and that notwithstanding the lack of the physical stock certificates that we should, you know, have them cancelled at the transfer agent and new certificates issued.

Well, we have done that. The fact remains that there is something called the Uniform Stock Transfer law and there is the possibility that these certificates that Vesco has are floating around somewhere. That problem has to be eliminated. That problem can be better eliminated, in our view, by a receivership which is a reorganizational receivership, because it is our view that a court appointed board of directors can cause the company to go into certain kinds of mergers or reorganizations which destroy the corporate shell; and when the corporate shell is destroyed, those certificates which have presumptive value under the Uniform Stock Transfer Act, will become the certificates of a dead corporation and Mr. Vesco or whoever is out there with him will have one heck of a time trying to get anybody to do anything with them.

So it is our view that if left in a reorganizational posture we can do things about destroying the potency of those unreceived certificates better than we could if the company were under a conventional management. But there are other things.

There are captive minority classes in this whole complex. That is, ICC functions through two active subsidiaries which Mr. Vesco captured, leaving five and ten per cent minorities in each one. Those minorities are under Vesco's bookkeeping underlooked.

THE COURT: Under what?

MR. CAMHY: Under water. That is to say, their debt to ICC wipes them out. But we know, and we have been instructed by Marvin Jacobs at the SEC, that there may be real equity in those minorities and that they should be recognized, that they should not be left in captivity without a vote, but as part of the reorganizational pattern we ought to do something about offering them ICC shares or giving them cash so that they can be full participants and not captive minorites.

This we are trying to do. We are trying to plan a reorganization in which we can accomplish things like wiping out the resco stock certificates, offering full participation to the captive minorities. At the same time, we are negotiating with the IOS group.

Now, when we negotiate with that group, we negotiate as receivers, much like they are. We wear a receiver's hat. We try to look like a good guy, not like a management. We go to receivership meetings that they hold of all of the IOS receivers. We stand around with the canapes and drink the cocktails and enjoy the political fruits of this entire mess. I don't deny it for one moment.

But the fact of the matter is we have brazened our way into The Club, and having done so we are getting Club treatment. And the principle product of that treatment is a humane settlement of the $120 million liability.

Now, this is presently in negotiation. I have attended four or five such sessions. I have made dollar offers. Those offers are under consideration. Offers and suggestions about arbitrations of certain issues have been discussed. The mechanics of those have been proposed. I am dealing with people who are fellow IOS liquidators, much as we are fellow appointees or quasi-receivers of IOS victims.

Now, while we remain in that posture, we hopefully can reach a conclusion in which a settlement is made with these people which results in a viable ICC and not an ICC which is either wiped out by judgments by people who have been the victim of Vesco's depradations or a company which will remain for years in litigation, fending off those claims.

Now, the only point I am trying to make, your Honor, getting back to some legal essentials, is that all of these things can be done in a reorganizational receivership. If they fail, their company can't remain in receivership forever. There is no question about it. It cannot even remain in receivership long term. This thing has gone on for four years.

The only question is, if there is a real chance of accomplishing reorganizational purposes of a receivership, shouldn't that chance be given its opportunity to flower? And we submit that within this calendar year this thing will either move or some important policy decisions will have to be made about where it is going.

Now, the first and most important person who must make this decision is not this Court. It is the Securities and Exchange Commission. It was their regulatory powers that put us here. It was their regulatory supervision which administers us. It is their special counsel whose directions we follow in all of these matters dealing with IOS.

This Court is entitled to know. More important, they are the party in this caption. They are the plaintiff, and this order says that this company cannot even have an annual meeting until the SEC applies for an annual meeting.

Now, I'm not saying that the plaintiff is without status. I'm not going to be technical after a year. I don't want to send him to Florida, nor do I want to send him on any wild goose chase. But the fact of the matter is that the real way this ought to be done is that either the company ought to go to the SEC and say "Time we have a meeting, please release us from the order and apply for a meeting,"or another interested party, such as a stockholder, ought to go to the SEC and say "We want a meeting. Why don't you please apply under the order for a meeting."

But I say the same thing can be accomplished if the Commission will announce its views on this subject to the Court. This Court is not required to make a decision in a plenary manner here. An administrative process put us here. An administrative recommendation caused the Court to act. And the Court is entitled to an administrative recommendation with respect to any further action it takes.

I'm not saying that the administrative recommendation is conclusive. Certainly a decision on the part of the administrator which is arbitrary or capricious or otherwise tainted could be attacked by anybody in this court. But certainly we are entitled on this record to have the views of the SEC with respect to all of the policy matters that I've mentioned, most importantly the fundamental question as to whether they regard this as a reorganizational receivership or as a litigation receivership designed to accomplish a particular purpose and to remove a source of trouble, and that trouble once removed to return the company back to its stockholder, common stockholder, ownership.

Now, there are some side aspects of this thing that I'm not going to go into at great length, but I do want to point out one thing, and that is that the management in there is quite concerned about how well the company is doing.

Under their stewardship this company has done marvelously well economically, and that has caused the stock to kind of perk of, and we are very concerned that people will think that this company consists only of its assets and its earnings and forget the fact that there is a $120 millio overhang that's got to be resolved, plus a class action, plus minority problems, plus Vesco's stock.

It is bruited about in small time investment circles, where you trade $1 and $2 stocks, that we have simply cancelled Vesco stock and that every stockholder is richer by one fourth. That is just not so. We are going to need that stock as trading wampum to deal with these IOS people. That is going to be our principal source of money to try to work out some deal with them.

We have a serious question as to whether we really got this stock, with Vesco walking around with the certificate and saying that he is going to do something with it.

All I am saying, your Honor, is that it is not as simple as it looks to somebody on the outside to pay a buck a share for a couple of hundred thousand shares and think he is going to take over an empire. He is not going to do it, not Mr. Underweiser and not Mr. Malhas, whether or not they are represented by Mr. Brodsky in this court.

This is a responsible corporation, it's got good management, and that management is a responsible management. The management looks to the SEC for guidance. I think this Court has the right to look to the SEC for guidance on two questions: One, is this a reorganizational receivership? And, two, have its purposes been accomplished or should it remain in order to finish its purposes, and for how long?

Thank you, your Honor.

THE COURT: All right. I want to hear from you, Mr. Glynn. But before I get to you, Mr. Butowsky, anything you want to add?

MR. BUTOWSKY: If it please the Court, I would like to ask for the privilege, being your appointed special counsel, of hearing the views of the Commission first.

THE COURT: All right.

MR. BUTOWSKY: Thank you.

MR. GLYNN: May it please the Court, Gregory C. Glynn, appearing for the Commission. Mr. Camhy has stated on the record today, your Honor, that the company has asked for the position of the Commission on this matter. Indeed, your Honor has just so indicated.

In this matter, your Honor, I want to make two points. First of all, as far as formal intervention by means of an intervention complaint is concerned, the Commission is opposed to this for all the reasons set forth in its rather lengthy memorandum which was filed in June of 1975. At that time an entity known as the Hemisphere Resident Condominium Owners Association, Inc. sought to intervene and, as your Honor will recall, your Honor denied that motion.

With regard to the more difficult and sophisticated question, which is really the core of the present motion, namely when will the report of the Special Counsel be filed and when should a shareholders meeting of this publicly held company be held, I would ask your Honor's indulgence to apply formally to the Commission with the anticipation that papers would be submitted to this Court within ten days to two weeks.

As your Honor is probably aware, since this hearing was calendared, the team litigating on behalf of the Commission the Vesco case has been in California taking depositions and we returned at the beginning of this week. We've been in New York yesterday and today.

The matter is of such significance that I believe it would be inappropriate for me as Commission counsel simply to take a position, even consulting with other Commission attorneys, without formally placing the matter on the calendar of the Commission and having that Government body by a vote formally determine what position it as a body seeks.

And so I would not want to comment on the desirability or a date schedule for either the report or shareholders meeting without getting a formal opinion of the Commission.

So I simply ask your Honor's indulgence for either ten days to two weeks on that issue.

If your Honor has any other questions, I will be glad to answer them.

THE COURT: No. I guess you've answered my question. You can't answer it right now.

MR. GLYNN: I have to go, I think in good conscience, to the Commission. But I can assure the Court that the papers will be filed within ten days to two weeks.

THE COURT: All right.

I think, Mr. Brodsky, we are going to have to wait for the ten days or two weeks. I think other questions which I've had in my mind have been answered. I haven't heard you complain, Mr. Brodsky, about any of the actions of the current board. Your complaint really is that this ought to be a board elected by the stockholders and responsive to the stockholders and not to me.

MR. BRODSKY: That's correct, your Honor.

THE COURT: And my other question was really going to be put to Mr. Camhy, but I think he has answered it: Why can't another board act just as officially and capably as this board has?

MR. CAMHY: May I respond to that, your Honor?

THE COURT: I think I know what your answer is going to be. I would be greatly concerned if another board were elected and it decided to retain another group of lawyers, if only because this would require an enormous amount of duplication of effort.

MR. BRODSKY: I share that view.

THE COURT: I understand Mr. Brodsky has that point very much in mind.

MR. CAMHY: I would like to speak to one other aspect of it, your Honor, if you would let me.

THE COURT: Yes. But I also gather from what you've been telling me that you think it is important for the welfare, the continued welfare of ICC, that the board, the management be either a quasi-receivership type of management or however you want to define it.

MR. CAMHY: That's right. Yes.

THE COURT: Is there anything else? You think the Court ought to have a finger in the pie anyway.

MR. CAMHY: That is correct, and only for a while.

I want to add one thing. In the state of the negotiations at the present time and in the state of the rear guard action that is going on with the Vesco stock, it would seem to me that having a stockholders meeting would plunge management, including counsel, the present directors and operating management at the legal-financial level, into the whole question of getting out proxy material and holding a shareholders meeting, with the various contentive groups that would be trying to get control, and in effect dissipate the energies of everybody for the next three, four, five or six months, and also destroy our credibility with the IOS group that we are negotiating with.

At every session they asked me, "Do you people still have authority? We understand that Brodsky has a client who is trying to take over, and we don't want to deal with you unless we know you've got some continuity." And, you know, I'm quoting from the last meeting. At every meeting I get this.

So I say, "No. We still have authority, and we expect to have authority," etc., etc.

But the question is, you know, once you get into having a stockholders meeting, and there is going to be a fight for control here, from what I can see, then everybody's energies at certain management levels will be devoted to the question of who should be the next group that runs this company rather than getting on with the business of completing the reorganization and this quasi-receivership.

THE COURT: I suppose --

MR. CAMHY: And I'm not talking about the court-elected board, by the way. The people on the court-elected board are not the people I'm talking about. I'm talking about certain people at the operating level.

THE COURT: I don't know this, but I would suppose that the court-elected board have found their service an arduous one and are looking forward to the day when they can be relieved of their duties.

I can see, maybe not chaos, but certainly tremendous difficulties created by stockholders meetings at the present time or in the near future.

On the other hand, conceivably, although this would be a difficult way to go about it, there might be some way to accommodate what Mr. Brodsky wants with the continued vitality of all of the matters which are pending which are going to have to be dealt with.

I suppose there is going to be a fight as to who is going to manage the company at some point anyway. Whether this is the time to engage in such a struggle is not at all clear to me.

MR. BUTOWSKY: Your Honor, I would like to refrain from taking a position until after the SEC states its formal position, and for that purpose I would appreciate it, I think we all would, if you would continue this hearing until a time shortly after we have been served with the Commission's papers.

That would also, of course, give you a chance to reflect upon the very serious issues which are involved in this matter.

However, I would like to say at this time a couple of cogent things that occurred to me.

First of all, I would like to concur completely with everything that Mr. Camhy said. I believe they all accurately state the posture of the corporation at the present time and the reasons why we have problems with the intervention motion at this time.

Second of all, I would like to remind your Honor that my function is not necessarily consistent with jg

the interests of the directors who would be elected by shareholders. As your Honor well knows, whether or not a corporation, ICC in this case, is liable for the violations of law committed by one of its employees - in this case, for example, its president, Mr. Vesco - depends, under the law -- and Mormon v. Zipco would be a case your Honor could look at on this -- on the extent to which the orporation itself, its directors participated in the activities leading there to be a finding of liability on the part of the president, chairman of the board, etc.

My report will deal extensively with these issues. It may be, and I don't want to say anything about what is in the report at this time, but it would not be unfair to conjecture a conclusion in the report that ICC is in fact liable for $120 million.

Consequently, I think it is fair to say that the present motion and the interests of those persons making it may not well be consistent with the conclusions of the report, which is an objective evaluation of what occurred and the legal consequences of it. And that's one of the reasons why I was appointed and why this board was appointed, because your Honor had to put someone in a position to make that kind of determination and advise the Court and the investing public of what occurred during that period of time.

I would like to say one quick word. Although there wasn't an accusation, one could clearly be read from the transcript. Yes, it has taken four years. But that has been four years conducting an investigation with limited resources, limited in great part by the Commission, in the most massive securities fraud in the history of this country.

I don't have to tell your Honor how widespread it has been, how many different parties have been involved, nda how many different volumes and volumes and, indeed, rooms of paper are involved. Merely putting the papers together in one room takes weeks. Understanding what is in them requires dozens of people.

THE COURT: I don't think you need to say, even for the record, Mr. Butowsky, why it has taken you so long, and I'm sure Mr. Brodsky didn't mean to suggest you haven't been diligent.

MR. BRODSKY: No question about that, your Honor.

THE COURT: He is just making the point that a lot of time has passed. I believe he is well aware, as the rest of us are, of the problems you've had to face.

MR. BUTOWSKY: I would like to add one last thing, and that is that I do at the present time have firsthand knowledge of the fact that Mr. Vesco does in fact intend to use the stock certificates of ICC.

THE COURT: All right. What I would like to do, then, is to pick the date for us to meet again sometime after the Commission has -- your plan is to put in writing your position, Mr. Glynn, is that what you have in mind?

MR. GLYNN: Yes, your Honor. I have to submit a memorandum to the Commission and then we will submit a pleading to the Court stating our position.

THE COURT: Do you think you can do this all in two weeks?

MR. GLYNN: It will probably require some acceleration. But I think we can do it. I could have the papers here by the 4th of March, your Honor.

THE COURT: Here, for me? That is two weeks from today.

MR. GLYNN:. Yes. We would have them on the Metroliner, if necessary, delivered.

THE COURT: I want to be sure that you do them as quickly as possible, but also that you do them as well as you can. I don't want to push you into a problem with a Metroliner, for example.

MR. GLYNN: I used that phrase because when we have to get something from Washington to New York the same day, you can use the Metroliner express service and get it here in three hours. It is really efficient.

But I would think, your Honor, that I can represent to the Court that we would have no problem in getting papers -- why don't we say -- delivered to the Court by Monday, the 8th of March.

THE COURT: Tuesday, the 8th.

MR. GLYNN: That's right. My calendar starts on Monday.

THE COURT: All right. Those are papers that you are going to circulate, I take it, to counsel, aren't you?

MR. GLYNN: I will circulate them not only to counsel, to Mr. Brodsky and his clients, both firms, and to Mr. Butowsky, but I'll serve them, since it is Commission policy, on all the people on the master serving list, which is some forty law firms in the city.

THE COURT: All right. Assuming that March 8th date, when should we plan to meet again?

Incidentally, one of the subjects I want to discuss at our next meeting is whether or not we ought to fix some deadlines for anything and, if so, what the deadlines ought to be. I don't mean to suggest by that, Mr.

Brodsky, that I am reaching any conclusion about what I am going to do with your application.

How much time should we plan on after the 8th for our meeting?

MR. GLYNN: Your Honor, Mr. Brodsky may want some time. I simply point out to the Court that the Commission has scheduled a motion for sanctions against Mr. Vesco under Rule 37 and certain other defendants for the 10th. So we'll be here. But that may not be enough time if he wants to file a written response.

MR. BRODSKY: I would anticipate that would be enough time for me, your Honor, between the 8th and the 10th. If I have two days, that should be enough.

MR. BUTOWSKY: If it could be late in the afternoon, because I have a deposition in the morning, I would appreciate it. The 11th would be much better for me.

MR. BRODSKY: Okay with me.

MR. GLYNN: The 11th is fine with the Commission. We are here on a deposition anyway.

THE COURT: All right. Let's make it on the 11th. I would rather leave ourselves plenty of time in case we need it. Is that suitable with all concerned?

MR. GLYNN: What time on the 11th?

THE COURT: First thing in the morning. 9.30 on March 11th.

(An adjournment was taken to March 11, 1977 at 9.30 a.m.)

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RECOMMENDATIONS OF SEC DATED MARCH 8, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. ROBERT L. VESCO, et al., Defendants.	72 Civ. 5001 (CES) RECOMMENDATIONS OF PLAINTIFF SECURITIES AND EXCHANGE COMMISSION REGARDING MOTION FOR INTERVENTION AND FOR A MEETING OF SHAREHOLDERS

The Plaintiff, Securities and Exchange Commission (hereinafter "The Commission") files herewith its Recommendations Regarding Motion for Intervention and for a Meeting of Shareholders (hereinafter "Recommendations"). These Recommendations are filed pursuant to Paragraph 4 of the Final Judgment of Permanent Injunction and Appointment of Special Counsel and Directors (International Controls Corp.) filed March 16, 1973 (hereinafter "Final Judgment") and further pursuant to express invitation of this Honorable court at a hearing on February 18, 1977.

The background and basis for these Recommendations are set forth in the attached Affidavit of Gregory C. Glynn, the Final Judgment, the files and records of this entire case including all hearings and papers filed in support of and in opposition to the instant Motion.

NOW, THEREFORE, the plaintiff Commission in this action respectfully submits to this Honorable Court the following recommendations:

1. The Report of the Special Counsel in this action, David M. Butowsky (hereinafter "Butowsky") should be filed not later than June 30, 1977. This Report should address itself to the matters described in Paragraph 3(a) of the Final Judgment.

2. Thereafter but not later than August 31, 1977, the interim Board of Directors of International Controls Corp. (hereinafter "ICC") should adopt and file its own report (hereinafter "Board Report") on the present status and future prospects of the Corporation. The Board Report should consider and discuss relevant aspects of the company's operational, financial and legal status, including without limitation thereby:

(a) a brief statement of the property, liabilities and financial condition of ICC;

(b) a description of current operations of the company together with recommendations as to the nature of future operations;

(c) a description of liabilities of the company including all contingent liabilities arising from actual, threatened or reasonably expected litigation, and

(d) recommendations which would serve as a prophylactic against the recurrence of events alleged in the Complaint in this action (72 Civ. 5001).

The above-described Board Report prepared by the current interim Board of Directors, should serve as an informational document for the shareholders and new directors of ICC.

3. A Shareholders' Meeting of ICC should be held not later than November 30, 1977. At this meeting an election of Directors of the Company should occur. Prior to the meeting a solicitation of proxies should be made in the light of all information furnished by the Report of Special Counsel and the Board Report.

4. The Court should conduct an evidentiary hearing for the purpose of advising the Court that the present intervenors are totally unrelated to any of the defendants in this action or their associates. Such inquiry as may be made at this hearing should also include an examination with regard to the

intentions expressed by the present intervenors regarding the prospective operation of the Company.

5. All shareholders of ICC should be notified immediately after the Court's rulings in this matter of the facts and nature of the rulings including the scheduled Shareholders' Meeting. Such notification should be done by the Company by a mailing to all shareholders of record and should include a request or invitation to all shareholders to submit to management names of appropriate candidates for election as new directors.

6. The Special Counsel, Mr. Butowsky, should continue and persevere in his duties as set forth in Paragraph 3 of the Final Judgment until Special Counsel submits his resignation or until otherwise ordered by the Court. In particular, Mr. Butowsky while functioning as Special Counsel should attend all meetings of the new Board of Directors and all meetings of any committee or subgroup thereof.

7. The Court should retain jurisdiction over ICC for the purpose of ensuring compliance with all provisions of the Final Judgment and for the further purpose of preventing any reentry into the Company by any of the defendants in this action and of ensuring that the assets of ICC are not dissipated and are not sold, transferred, exchanged, pledged, hypothecated or otherwise conveyed or subjected to lien in fraud of any creditors of ICC including any claimants or investors of the IOS Dollar Funds.

8. Except as set forth herein, the motion for intervention should be denied. The motion for a Shareholders' Meeting should be granted on the time schedule and on the terms and conditions set forth herein.

It is respectfully requested that the Court adopt the foregoing Recommendations of the Plaintiff Commission.

Dated at Washington D.C.
this 8th day of March 1977.

Respectfully submitted,

Gregory C. Glynn

William D. Moran
Regional Administrator
Marvin E. Jacob
Associate Regional
Administrator
Securities and Exchange
Commission
New York Regional Office
26 Federal Plaza
New York, New York 10007

Gregory C. Glynn
Assistant Chief Trial Attorney
Lester Green
Special Counsel
Frederic M. Krieger
Trial Attorney

Attorneys for Plaintiff
Securities and Exchange Commission
500 North Capitol Street
Washington, D.C. 20549
Telephone (202) 755-7170

AFFIDAVIT OF GREGORY C. GLYNN

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION
Plaintiff,
v.
ROBERT L. VESCO, et al.,
Defendants.

72 Civ. 5001 (CES)

AFFIDAVIT OF GREGORY C. GLYNN

City of Washington :
: ss.
District of Columbia:

GREGORY C. GLYNN, being duly sworn deposes and says:

1. I am a attorney on the staff of the plaintiff Securities and Exchange Commission (hereinafter "the Commission") and since March 1975 I have had primary responsibility for the litigation known as Securities and Exchange Commission v. Robert L. Vesco, et al., 72 Civ. 5001 (CES). I am generally familiar with the files and records of the case and make this Affidavit based upon a reading of pleadings and other papers filed in the instant case.

BACKGROUND

2. On November 27, 1972, the Commission filed a four count Complaint against Robert L. Vesco (hereinafter "Vesco") and 41 other persons or corporate entities. Among the corporate defendants was International Controls Corp., a Florida corporation (hereinafter "ICC"), a company controlled by defendant Vesco by reason, inter alia, of his ownership of about 26% of the outstanding voting stock and Vesco's status as chairman of the board and chief executive officer. (Complaint Para. 31, p. 8).

3. Paragraph 20 of the Complaint alleges with regard to ICC:

> "Defendant International Controls was incorporated in the state of Florida and its principal executive offices are located in Fairfield New Jersey. It is engaged in the manufacture of various electrical and mechanical equipment

> for markets such as air transportation and communications. The common stock and warrants of International Controls are listed on the American Stock Exchange. The company files with the Commission annual, periodic and current reports pursuant to Section 13 of the Securities Exchange Act, 15 U.S.C. 78m."

4. Althought ICC was controlled by Vesco, the Complaint alleged that ICC in turn controlled three offshore entities: IOS Ltd., Value Capital Ltd. and International Bancorp Ltd. by reason, inter alia, of its ownership, respectively, of about 38%, 38% and 22% of the outstanding stock of those companies and the placement of ICC personnel (including defendant Vesco) as their officers and directors. (Complaint Para. 31, p. 8). IOS Ltd. was a non-resident Canadian holding company which controlled, inter alia, certain offshore mutual funds including the Fund of Funds, Ltd., Venture Fund (International) N.V., Transglobal Growth Fund, Ltd. and IIT, an International Investment Trust (sometimes referred to as the "Dollar Funds"). Value Capital was a holding company for certain insurance assets and real estate assets at one time owned by IOS. Similarly International Bancorp was a holding company for the banks formerly owned by IOS and for Bahamas Commonwealth Bank.

5. ICC is named as a defendant in all four counts of the complaint. In its prayer for relief, the Commission's complaint sought, in addition to an injunction against ICC, an appointment of a receiver for ICC:

(a) to prepare and make all filings for ICC with the Commission as may be required by law; to correct past filings; and to issue reports to ICC's shareholders; and

(b) to institute legal and other actions and take all other necessary steps, including the making and rendering of an appropriate accounting to protect the public shareholders of ICC. (Complaint Para. 9-Prayer p. 52).

6. The Complaint also prayed for an order directing ICC to correct its false and misleading filings with the Commission. (Complaint, Para. 2-Prayer, p. 50).

7. On March 16, 1973, fter the filing of a Consent Settlement by ICC the Court entered a Final Judgment of Permanent Injunction and Appointment of Special Counsel and Directors (International Controls Corp.) (hereinafter "Final Judgment"). A copy of that Final Judgment is attached hereto as Exhibit "A".

8. Among other provisions, the Final Judgment appoints a Special Counsel who is empowered and directed to:

> ([illegible] t a full investigation and arrange fo [illegible] ersee an accounting into the financial and other affairs of International Controls, and report to this Court and plaintiff Commission his findings and recommendations for action ...

Final Judgment, Para. 3(a), p. 4.

9. Under the terms of the Final Judgment, the Court appointed "a new interim independent board of directors for ICC, none of whom shall previously have served as a member of the board of directors of ICC." The Final Judgment provides:

> "Said interim board of directors shall consist of at least three persons, shall be satisfactory to Plaintiff Commission, shall replace the existing board of directors of ICC, and shall have full power under applicable corporate law to conduct the affairs of ICC in conjunction with the Special Counsel, subject to the terms and conditions of this Final Judgment. Any dispute between the Special Counsel and the board of directors shall be submitted to this Court for determination. The board of directors appointed pursuant to this paragraph shall hold office

> until further order of this Court upon application of plaintiff Commission and until the shareholders of International Controls have elected a new board of directors in compliance with the provisions of the Securities Exchange Act of 1934.
> (Emphasis Added).
> Final Judgment, Para. 4, p. 6-7.

Pursuant to the Final Judgment, David M. Butowsky, Esq. was appointed Special Counsel for ICC and a full interim board of directors was also appointed.

The Instant Motion to Intervene

11. On January 9, 1976, some nine shareholders of ICC [1] represented by Edward Brodsky of Goldstein, Shames and Hyde and Irwin P. Underweiser of Underweiser and Fuchs (hereinafter "Shareholder Intervenors") filed a Motion to Intervene in 72 Civ. 5001 pursuant to Rule 24, Fed. R. Civ. P. In essence the instant motion seeks an "order directing that a meeting of the shareholders of ICC be called as soon as possible for the purpose of electing directors." The Shareholder Intervenors assert that they control in excess of some 175,000 shares of ICC common stock.

12. On January 20, 1977, David M. Butowsky, Special Counsel for ICC filed an Affidavit opposing the instant Motion for a Shareholders' Meeting. Also on Janaury 20, 1977, Allen M. Shinn, President and Chief Executive Officer and a member of the interim Board of ICC filed an Affidavit opposing the Motion. On January 25, 1977, Nathan M. Fuchs filed an Affidavit in Support of Motion for Intervention. A hearing was held on the matter on February 18, 1977 and was continued to March 11, 1977 at 9:30 a.m.

13. On February 18, 1977 this Honorable Court invited the plaintiff Commission to submit its Recommendations. Such Recommendations are authorized by Paragraph 4 of the Final Judgment. After due considersation the Commission submits

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[1] These shareholders included Wade J. Malhas, Irving Horowitz, Martin Jacoby, Charles Birbara, Cornelius A. Hubner, Murray Dryer, Phil Birbara, N. E. Burgess and William Zeidman.

the following recommendations which are made to conserve the assets of ICC and to treat in a fair and equitable and also feasible manner all securities holders and creditors of ICC.

NOW, THEREFORE, the plaintiff Commission in this action respectfully submits to this Honorable Court the following recommendations:

1. The Report of the Special Counsel in this action, David M. Butowsky (hereinafter "Butowsky") should be filed not later than June 30, 1977. This Report should address itself to the matters described in Paragraph 3(a) of the Final Judgment.

2. Thereafter but not later than August 31, 1977, the interim Board of Directors of International Controls Corp. (hereinafter "ICC") should adopt and file its own report (hereinafter "Board Report") on the present status and future prospects of the Corporation. The Board Report should consider and discuss relevant aspects of the company's operational, financial and legal status, including without limitation thereby:

(a) a brief statement of the property, liabilities and financial condition of ICC;

(b) a description of current operations of the company together with recommendations as to the nature of future operations;

(c) a description of liabilities of the company including all contingent liabilities arising from actual, threatened or reasonably expected litigation, and

(d) recommendations which would serve as a prophylactic against the recurrence of events alleged in the Complaint in this action (72 Civ. 5001).

The above-described Board Report prepared by the current interim Board of Directors, should serve as an informational document for the shareholders and the new directors of ICC

3. A Shareholders' Meeting of ICC should be held not later than November 30, 1977. At this meeting an election of Directors of the Company should occur. Prior to the meeting a solicitation of proxies should be made in the light of all information furnished by the Report of Special Counsel and the Board Report.

4. The Court should conduct an evidentiary hearing for the purpose of advising the Court that the present intervenors are totally unrelated to any of the defendants in this action or their associates. Such inquiry as may be made at this hearing should also include an examination with regard to the intentions expressed by the present intervenors regarding the prospective operation of the Company.

5. All shareholders of ICC should be notified immediately after the Court's rulings in this matter of the facts and nature of the rulings including the scheduled Shareholders' Meeting. Such notification should be done by the Company by a mailing to all shareholders of record and should include a request or invitation to all shareholders to submit to management names of appropriate candidates for election as new directors.

6. The Special Counsel, Mr. Butowsky, should continue and persevere in his duties as set forth in Paragraph 3 of the Final Judgment until Special Counsel submits his resignation or until otherwise ordered by the Court. In particular, Mr. Butowsky while

functioning as Special Counsel should attend all meetings of the new Board of Directors and all meetings of any committee or subgroup thereof.

7. The Court should retain jurisdiction over ICC for the purpose of ensuring compliance with all provisions of the Final Judgment and for the further purpose of preventing any reentry into the Company by any of the defendants in this action and of ensuring that the assets of ICC are not dissipated and are not sold, transferred, exchanged, pledged, hypothecated or otherwise conveyed or subjected to lien in fraud of any creditors of ICC including any claimants or investors of the IOS Dollar Funds.

8. Except as set forth herein, the motion for intervention should be denied. The motion for a Shareholders' Meeting should be granted on the time schedule and on the terms and conditions set forth herein.

It is respectfully requested that the Court adopt the foregoing Recommendations of the Plaintiff Commission.

Gregory C. Glynn
Gregory C. Glynn

Subscribed and Sworn to Before
me this 9th day of March 1977

Christine Delaney
Notary Public, N.Y.

My Commission Expires Dec. 11, 1978

TRANSCRIPT OF HEARING DATED MARCH 21, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YROK

- x

SECURITIES AND EXCHANGE COMMISSION, :
Plaintiff, :
vs. : 72 Civ. 500
ROBERT L. VESCO, et al., :
Defendants.

- x

March 21, 1977,
10 A.M.

Before:

Hon. Charles E. Stewart,
District Judge.

Appearances:

GREGORY C. GLYNN, ESQ.,
Counsel for SEC,
Washington, D.C. 20549.

EDWARD BRODSKY, ESQ.,
Attorney for Intervenors.

SHEA, GOULD, CLIMENKO & CASEY, ESQS.,
Attorneys for International Controls Corp.,
Shelton Camhy, Esq., of Counsel.

DAVID BUTOWSKY, ESQ.,
Special Counsel.

THE COURT: Good morning. Mr. Camhy.

MR. CAMHY: Your Honor, when last we were here I requested time to submit some papers with respect to the company's position on the SEC recommendation. The board met last Thursday morning and I did receive instructions from them. Unfortunately the combination of a minor eye injury, a blizzard and a trip prevented me from getting the company's recommendations into written form. I believe I can do what has to be done from the table here.

THE COURT: Good.

MR. CAMHY: First, let me inform the court of the directors' view as simply a piece of transmittal of information for whatever use the court may find of it. Then I would like to make a few arguments based on it.

The board would request that the court defer taking any action on so much of the recommendations as provide (i) special counsel should continue beyond the date of the shareholders' meeting, and function with the new board.

The present board of directors does not wish to contest that at the present time but thinks it is premature for the court order to contain any such language. The continuation of special counsel beyond the date of a shareholders' elected board of directors presents a number of problems which, while I think solvable, perhaps would involve us in a great deal of complications at the present time which I don't think are necessary. I suggest to your Honor that the presence of special counsel requires that he be in a position to turn over information to other people which is private information; that he be permitted to cause the company to take steps which are not necessarily in the best interests of the common shareholders. I don't think that these things are insoluble problems, but the board would prefer that the court order, which has to deal only with a motion to intervene and their request for a shareholders' meeting, and act on a petition for intervention, not embody these recommendations in the language or in any language for now. It would be enough to simply state that the recommendations have been received by the company and by the court and that they will be given the respect that one expects that they will get as coming from the SEC.

A similar one would be that item 7 -- that the court retain jurisdiction over ICC for purposes of insuring compliance with the provisions of final judgment and preventing any reentry into the company of defendants, and to make sure that the assets are not dissipated or sold or transferred, etc.

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THE COURT: Where is item C; where are you?

MR. CAMHY: Page 3 of the recommendations.

THE COURT: All right.

MR. CAMHY: We would expect that this court always maintains jurisdiction for enforcing its judgments and decrees.

Secondly, we do not, I think, question the wisdom of some kind of a provision about protecting the assets of the company while it has such major claims against it.

We just believe that it would be premature now to embody such a recommendation in a judicial decree which relates solely, as I indicated before, to the question of intervention and having a shareholders' meeting.

The question about not dissipating assets raises problems about management, about transactions with other companies, about possible acquisitions or the possibility of being acquired, all of which the board is prepared to confront at the proper time. It is just that at the present time we feel that it is not directly connected to the motion that is before the court and that embodying these recommendations in a decree would simply create problems sooner than they have to be created.

We are mindful of the admonition that is in paragraph 7 and certainly while we remain under the present court's jurisdiction there is no possibility of any of the things that are worried about their occurring. Before we leave the court's jurisdiction we feel they will be back here and our own request, the request of the SEC or the shareholders. For the time being this is not a provision which must necessarily be in the decree.

Getting to the things that should be in the decree, the important thing is the requirement that stockholders be notified of this application, of the court's ruling on it, and we would add that stockholders be notified of the SEC's recommendations; that is to say, we would send out a notice shortly following your Honor's disposition of this motion informing the stockholders of what the SEC thin is the right thing to do and in that way all of the investors will know and --

③

THE COURT: Who would send it out? Would the board send out the SEC's position?

MR. CAMHY: Yes, we will send out the SEC's position and the order here says that "All shareholders of ICC should be notified immediately after the court's rulings in matters of the facts and nature of the rulings, including the scheduled shareholders' meeting. Such notificatio should be done by the company by a mailing to all shareholders of record and should include a request for invitation to all shareholders to submit to management names of appropriate candidates for election and new directors."

THE COURT: That doesn't exclude the possibility of including the SEC's position.

MR. CAMHY: We intend to. We recommend that included in your order be a direction that we send out to shareholders the SEC's recommendations which we think would be a very useful thing.

We have no objection to the directions that special counsel be directed to report and that the directors be directed to report. We would request that the description of what ought to be in the report not be in the order itself or the order may make reference to the recommendations, and we will submit an order. I'm not going to put you to the burden of dealing with this detailed application. We will submit our proposed order the lines that I'm indicating. It would be our request that the details in the report not be embodied in the order.

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THE COURT: I would suppose that what you are proposing is agreeable to all concerned. The order, if it doesn't spell out what is contained in paragraph 2 of the recommendation, at least ought to be broad enough so that it would contemplate that I could require information after I had seen what was proposed to be sent out, information which hadn't been included which I think should be included.

MR. CAMHY: Yes, your Honor.

THE COURT: So it is not that you are suggesting now that any of the items listed in paragraph 2 of the recommendations should not be included in the board's report. You just want a little flexibility at this time as to how you are going to prepare it with the understanding that when it is prepared it will be reviewed by counsel and by me.

MR. CAMHY: No question about it.

THE COURT: Fine.

MR. CAMHY: I am prepared to put in the order a direction that so far as possible the award, what is set forth in the Commission's recommendation.

Getting to matters on which we are going to have a bit more of a problem, first there is the direction of the shareholders' meeting on November 30th ought to be held November 30th. There is pending before the court an application to intervene. The Commission has said that in respect to the application to intervene certain evidentiary procedures be followed for the purposes of establishing the plaintiff's good faith and the petitioners' good faith in connection with the question of whether discretion ought to be allowed; that he ought to be allowed to intervene

in this case. I submit that there is no way in theory, at least, that the relief that he requests can be granted without permitting him to intervene and since it has not been decided yet whether we ought to intervene or be permitted to intervene, I would request that the application be held in abeyance pending the conclusion of the evidentiary procedure set forth in the Commission's recommendations, but with the court noting that the Commission has recommended that a meeting be held on November 30th and reciting that the company has indicated to the ourt that it accepts as its obligation in this matter the holding of a meeting on November 30th. But I would request that there not be a judicial direction for a meeting on November 30th simply because I don't think that this petitioner is entitled to relief, *per se*, until the
⑤ evidentiary part of this thing is over.

The last time I had occasion to --

THE COURT: Are you saying that there doesn't need to be a stockholders' meeting on November 30th; is that what you are saying, if there is no intervention permitted?

MR. CAMHY: No, I'm saying that in --

THE COURT: If you are not saying that, then what is the problem?

MR. CAMHY: The question is whether the court's order should contain a direction as relief on this motion that a meeting is ordered, and I suggest to your Honor that no such direction is necessary.

6

The order could contain a recitation about the receipt of recommendations from the Commission and a recitation that the company has reviewed the recommendations and understands its obligations to hold the meeting and intends to hold the meeting in accordance with those recommendations, but that the court not direct as an order granting relief to the petitioner here the holding of such a meeting, and the reason is, first, we would hope that the company not be under a judicial decree directing a meeting, and, secondly, we do not believe in the procedural posture of this case, while the question of permissibility of their intervention is at issue, did they have any right to any relief from the court.

THE COURT: The order could be phrased in terms of: This is done at the Commission's request pursuant to the final judgment which was entered some time ago, not at the request of the intervenor who has to establish yet his right to intervene.

7

MR. CAMHY: I think that would moot the intervention and then we would lose the evidentiary procedure.

THE COURT: If I give the Commission, in substance, what they are proposing here it does make the intervention unnecessary. There may be other reasons why an intervention is appropriate that I'm not focusing on.

MR. CAMHY: My purpose is to achieve two things, one, to --

THE COURT: I can't quite understand why it makes any difference at whose behest the stockholders' meeting is held. If I decide that the intervenors don't have the right to intervene, I would suppose that I still have the Commission's recommendation in front of me that we have the stockholders' meeting in any event.

MR. CAMHY: That is right, your Honor, and the only problem with that is that if you do order the meeting it seems to me that the entire petition has been mootted and if the petition has been mooted or decided, then it seems to me that there is little basis for holding any of these evidentiary things that the Commission wanted done such as finding out who these people are and what they are about.

⑥

One of the purposes the court keeps jurisdiction is by leaving open the request for relief that there is an application by somebody before you. Once the relief is granted, it seems to me that the application has either

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been mooted or granted and there is no basis for holding evidentiary hearing. There is application here, for a stockholders' meeting. What I would like to do is make it clear that there is going to be a meeting, but also leave the question of relief on this motion open because the only relief requested is the meeting and we do want to take some depositions of these people.

THE COURT: If there is going to be such a hearing?

MR. CAMHY: Yes.

THE COURT: If I understand you correctly, then, what you are saying is that we can save all of ourselves some time and trouble if we direct the hearing be held pursuant to the Commission's request and that I deny the motion to intervene.

MR. CAMHY: Yes, that is one way of doing it, but I think justice would be just as well served if you reserved decision on the motion to intervene and directed the examinations and if in the order reserving decision there is the company's acquiescence in the idea of a meeting and its intention to hold such a meeting that is indicated to the stockholders, I think there is just as much force on the company in the holding of a meeting as if it were a court order.

THE COURT: All right.

MR. CAMHY: The most important thing that the board has instructed me to advise the court and request is a time schedule. The board is perfectly content with the time schedule set forth by the Commission. They are prepared to meet their responsibilities under it. On the other hand, if there is any delay in Mr. Butowsky's report, the board has requested that I request the court that there be the equivalent delay in the board's report. The board feels that almost every important economic and policy matter affecting this company somehow ultimately traces back to its problem with IOS. The company has a massive tax case against it at the present time and the issues in that tax case are what the nature of the IBL and BCL spinoffs were, whether they constituted a constructive dividend to ICC, how it was that ICC lost these properties in the Vesco sales to Kilmore and Brobal and right now the company is confronted with an $8,000,000 tax liability the underlying factual issues of which are almost identical to the issues in the whole Vesco mess.

The delay that the board wants is if I give Mr. Butowsky some more time, they want some more time for their report, not only for the shareholders' meeting?

MR. CAMHY: That is right. We will run into some difficulty in time. Mr. Butowsky is talking about a

60-day extension. We are perfectly willing to abide by the schedule that the Commission has suggested.

THE COURT: I see. All right.

MR. CAMHY: I cannot urge too strongly the fact that almost every important decision here rests on where we are going with the IOS problem and the IOS settlement.

THE COURT: All right.

MR. CAMHY: I might add that there are two or three other things that hinge on this same IOS problem. One thing is the pendency of these IOS negotiations. Conceivably a settlement could be reached with IOS within the next month or two. If that settlement is reached a large part of our dependence on Mr. Butowsky's report would have been eliminated.

Secondly, if such a settlement is reached we may have our stockholders' meeting a lot sooner than November 30th. For that reason I can't guarantee that things will follow the schedule, if anything, they will be sooner, but if these other things don't occur and Mr. Butowsky does want 60 days more I'm afraid I have to take the outside position where the company says: Listen, we want the 60 days that we had after July 1st. I know your Honor has a vacation schedule for the latter part of August. I know there is a good deal of seriousness about the November 30th date for the stockholders' meeting, and I'm not quite sure how all of these things are going to be kept in sequence.

THE COURT: Let me hear from Mr. Glynn.

MR. GLYNN: Your Honor, I have some comments and I will make my comments in the order that Mr. Camhy made his.

THE COURT: Yes.

MR. GLYNN: As far as Mr. Butowsky continuing into the new board. I would agree on behalf of the Commission that this question may be deferred. Mr. Butowsky may decide to resign by that time. He may have completed his job.

THE COURT: I think that can safely be left for the future.

MR. GLYNN: If he should feel on that occasion he should continue to monitor the activities, I think he ought to have a right to do it at that time, with the court retaining jurisdiction. I think I would have to oppose Mr. Camhy's comments because I think it is important that this court keep some kind of a monitor on ICC from the transitional stage to the new board of directors until they get new officers and we see how things work out.

THE COURT: I don't think Mr. Camhy disagrees with that. He just doesn't want to put it in yet. I would feel a little nervous about it having been recommended and then deleting it. It might create some mistaken impressions that I haven't retained jurisdiction as of right now or I intended to give it up somewhere in the near future. I think I would be more comfortable if I left it in. It seems to me it says anything other than what is the present situation and the situation for at least the foreseeable future.

MR. GLYNN: I think it would be in at least until all the IOS claims are settled and until there has been equitable resolution of the dispute between the dollar funds and the ICC.

THE COURT: Yes, Mr. Camhy?

MR. CAMHY: Your Honor, it should be clear that the court is retaining jurisdiction and will retain jurisdiction, but the court ought to simply reserve the precise terms and matters on which it is retaining the jurisdiction until a date not less than 30 days before the stockholders' meeting. All I'm trying to do is get the language of this thing worked out at the time we are drawing the proxy material and not at the present time.

THE COURT: The language of 7 may be more specific than is needed for present purposes.

MR. CAMHY: Or not specific enough, not containing the right things.

THE COURT: Yes. It seems to me what we are talking about is what language should be put into whatever order should be entered into now.

MR. GLYNN: Going on to the transmittal of the recommendations of the shareholders of ICC, I have no objection to that. If the company intends to make mailings in the ordinary course to all shareholders within the next three or four weeks, it can include all materials, including the court's order and the SEC recommendations in that mailing. It need not make a special mailing to shareholders unless they are not going to make a regular mailing for the next two or three months.

THE COURT: All right.

MR. GLYNN: Mr. Camhy states that he is going to submit a proposed order. I would hope that he would do that by way of notice of settlement so the Commission can comment on that.

THE COURT: Yes, I want it to be by a notice.

MR. GLYNN: I would agree that the court should have the right to insist that certain items be included in the order, but I have no problem with allowing the board greater flexibility in what to cover and what not to cover.

As far as the November 30th shareholders' meeting is concerned, I think we ought to aim for this as a target goal because delays are always compounding in litigation and regardless of the evidentiary hearing on, say, the relationship of the intervening or allegedly intervening shareholders to Mr. Vesco, I think this is the primary question with which we are concerning the evidentiary hearing, namely, whether these shareholders are really acting sub rosa for Mr. Vesco. If this is true, the court may have to take special action just as it nullified the shares of Vesco and company, but I don't expect that to be the case.

The only other question that we would want to inquire into in the evidentiary hearing is just the intentions of the allegedly intervening shareholders regarding the company, whether they intend to continue operations or what they intend to do in that regard.

On the question of intervention, it has always been the Commission's position that the intervention is a limited one. In other words, it is not an intervention within the primary lawsuit under Rule 24 of the Federal Rules. It is limited intervention in the old equity sense, simply for the purpose of having a shareholder's meeting, and regardless of the intervention I think I ought to put on the record that the Commission feels that it is about time to have a shareholders' meeting. It has been some four years, and so on the Commission's own motion I suppose we can look at the forthcoming shareholders' meeting as being scheduled on that basis.

The time schedule --

THE COURT: Before you leave that point, are you suggesting that we should make it clear that the stockholders' meeting, the schedule we are going to draw up preliminary to that consider, in effect, that everything which is being done at this point is being done on the Commission's motion and it follows from that that we are giving the proposed intervenors the relief they want and that thereafter I can deny the motion to intervene?

r2 MR. FLYNN: I don't want to give up the evidentiary hearing. That seems to be the only jurisdictionally different point. In point of fact, the historical --

THE COURT: Is that because you want to find out if these intervenors are acting for Vesco? You can do that even if I dismiss the motion to intervene, I suppose.

MR. GLYNN: We have always got to look for a record. The Court of Appeals may have to have a record on this. That is a reason for the evidentiary hearing and having the relationships of the people on the record.

THE COURT: If I deny the motion to intervene we don't need a record on that, that is, if I deny the motion to intervene on the ground that the intervenor's relief has been granted. You don't need a record. They have gotten what they have asked for, so you need an evidentiary hearing to find out whether they are entitled to intervene and if you have doubts about their bona fides I would suppose you could pursue them in the main lawsuit.

MR. GLYNN: I would rather not do it in the main lawsuit. I have enough to do in it already.

THE COURT: I take it that what you are saying is you would propose that we go ahead with the evidentiary hearings that you have recommended and which Mr. Camhy apparently is also interested in pursuing, but that we defer acting on the motion to intervene until after those hearings have been held, which I would assume they have to do.

MR. GLYNN: That would be agreeable, your Honor. In fact it is probably the wisest choice to do that.

THE COURT: All right.

MR. GLYNN: On the time schedule, there is a little bit of a problem, because you can't hold the shareholders' meeting without accurate proxy materials and to get the accurate proxy materials you really need both the special counsel's report and the board's report.

Now, it may be that Mr. Butowsky will need some more time for his special counsel report. I don't think that would automatically put back the board's report by an equal number of days, that is, if he is 30 days late they have to have an extra 30 days. I think what we ought to look forward to is a special counsel report close to that target date and a board report close to its target date of August 31st. I submit to the court that the board report was always contemplated by the Commission to be independent of the special counsel's report and the board can file two reports, one essentially an operational report subject to qualification when the special counsel's report comes back, and an amended or supplemental board report which would take into account the recommendations of the special counsel. I don't want to defer the board from working on this report or even from filing it.

THE COURT: It seems to me that certainly the board is not going to want to submit anything which is final until after they have had plenty of time to consider the special counsel's report. If it is possible submit something that doesn't depend on special counsel's report, fine, but I would think they would want some time to consider the special counsel's report before they finally say all that they think needs to be said.

What is your timetable, Mr. Butowsky? Has there been any change since you last told us about your problems?

MR. BUTOWSKY: Your Honor, I had hoped to be given as late in August as you could possibly give me. As you know, there is still one large hunk of the investigation which remains to be done in addition to which it is expected that prior to submitting the final report there will be important settlement of claims discussions with various people whose special counsel would otherwise propose litigation be instituted against.

THE COURT: This isn't the kind of situation, it seems to me, where we can fix a target date which presently seems possible but not likely and then change our minds later on and, in effect, grant extensions of time. We can, of course, do that. I would rather embark now on a program which really we think we can adhere to. If a week's delay becomes necessary later on, of course, all right, but I would hate to embark on a schedule now where we really feel that extraordinary efforts would have to be made to even come close and that it is much more likely that we need another two months later on. I wonder if isn't better for us to move everything back 45 days or so. Is there something magic about doing it this year, Mr. Glynn?

MR. GLYNN: I can't honestly say if there is anything magic about it.

THE COURT: It would be nice to do it in 1977 rather than 1978, of course. If we move it back in the 1977 year we get awfully close to Christmas and that isn't a good time.

MR. GLYNN: It ought to be done with all deliberate speed and whatever date the court decides is agreeable to the Commission.

THE COURT: I, of course, have to keep myself closely informed of what Mr. Butowsky is doing and I know he has got a lot of matters that need to be wound up and, frankly, I think if he can do it by August he is doing a great job.

MR. BUTOWSKY: So do I, your Honor.

THE COURT: I didn't want any comment on that, Mr. Butowsky. I meant great in terms of getting the job done. I wasn't evaluating the quality of it.

Mr. Camhy, do you have any thoughts on the timetable problem?

MR. CAMHY: None other than what I have said. The company desires to have a meeting as early as possible. The only thing I can say is that it would be complicated once you get into December, when you get into the prospect of financials, the prospect of new financials coming a few months thereafter.

THE COURT: I would like to get the report on December 1st and know that at least we have had a 1977 meeting.

MR. CAMHY: I'm not going to make problems for somebody. You can shave 15 days off the company's position. I know I will be --

THE COURT: Mr. Brodsky, what do you think about all of these matters?

MR. BRODSKY: Your Honor, if I may, I would like to comment at least on some parts of this that do concern my own clients. First of all, I don't have any position here on whether Mr. Butowsky continues beyond the shareholders' meeting or not. I do think it perhaps premature, as I think other counsel believe, and I certainly have no problem with the court retaining jurisdiction over this matter for as long as it takes, and that includes beyond the shareholders' meeting. But I'm much less formalistic than Mr. Camhy. I don't really care whether this shareholders' meeting comes as a result formally of our intervention or it comes as a result of the SEC's motion. We just want a shareholders' meeting.

To get to the next point, this question of a hearing, your Honor, we have been in this matter now for about a year and nobody has come to me ever and suggested that my own clients are acting less than in good faith and my problem with a hearing and a deposition is that we are acting on behalf of all the shareholders in this company. Each of my individual clients doesn't have a substantial investment in the company and --

THE COURT: Mr. Brodsky, I understand that and I don't think anybody doubts your good faith or your clients' good faith. It is just that we need to be sure, and I am perfectly clear that if I am going to grant your motion to intervene I would not be willing to do so unless I was thoroughly satisfied that your clients are what they purport to be and I am prepared to assume they are, but I need to be satisfied.

MR. BRODSKY: There is no fact that anybody has called to my attention leading to the conclusion that they are acting in less than good faith. I have said I will give you an affidavit of every one of my clients and if there is anything in there that anybody has any contrary evidence on, let's have a hearing. I have no problem with that. I am trying to cut down the costs. I am trying to be practical. If Mr. Camhy is going to spend the company's money on depositions -- we are trying to save company money here. The company belongs to the shareholders. I don't want to go into it expensive legal costs conducting depositions of all my clients on an issue that is a non-issue because nobody has any facts to the contrary.

The Commission wants a statement, and I understand it and we will give it to them, that Vesco's people's interests aren't involved. I don't want this to cost a lot of money. I don't want them to go through an expensive legal process for a meeting. But for our attempt at intervention, whether you are going to grant our motion or not, there apparently is going to be a shareholders' meeting and the only reason is because of our attempted intervention.

THE COURT: It seems to me, Mr. Brodsky, it is hard to disagree with that. It does seem to me from where I sit that your participation in these proceedings has helped to bring that about sooner rather than later.

MR. BRODSKY: I'm suggesting I would like this result accomplished with a minimim of cost to my own clients and have the meeting as soon as possible.

THE COURT: I suggest we do this: that Mr. Camhy prepare an order along the lines of what we have been discussing this morning and submit it to counsel. I think you might submit a copy to me at the same time, Mr. Camhy, if you can do this fairly promptly and make it returnable fairly promptly after you submit it to counsel, and I don't know precisely what the schedule ought to be. I think

I would like very much to see if we can wind this up with a stockholders' meeting in the year 1977 and I would like us to have that as our target at least, but a target that we really intend to stick with. If we can make it a little later than November 30th and squeeze everybody's time in between, I think that is what we should do. We could arrange that Mr. Butowsky would submit a report which would be as much as possible his final report, but there may be some tag ends which would not be terribly important which could come in later.

Would something like that be a useful device? I don't know.

It seems to me, Mr. Butowsky, that we ought to think of your report, whether it is final or just final, subject to being made final final along about the middle of August; that the board's report along about -- here I'm really picking a day out of the air, but I'm saying October 1st. Then the stockholders' meeting, say, the first week in December. I don't mean to suggest by referring to these dates that I am sold on the notion that these are the right dates at this point. I would like counsel to talk about it among themselves in the next several days while you are discussing Mr. Camhy's proposed order.

MR. BUTOWSKY: I have no problem with those times, your Honor. I would like the order, of course, to contain a specific statement that it does not affect any of the other provisions in the consent judgment or the order appointing special counsel.

THE COURT: Yes, I think that's proper.

All right. Is that specific enough for all of you?

MR. GLYNN: Agreeable to the Commission.

MR. CAMHY: I'm going to order immediate copy of the transcript of today's argument and use that as a basis for the drafting of the proposed order which I would hope to have to counsel within about a week.

THE COURT: All right.

MR. CAMHY: And to the court.

THE COURT: Thanks very much, gentlemen.

--

NOTICE OF ENTRY OF ORDER DATED APRIL 22, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- -X 72 Civ. 5001 (CES)

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

-against- :

ROBERT L. VESCO, et al., : NOTICE OF ENTRY

Defendants. :

- -X

SIRS:

PLEASE TAKE NOTICE that the within is a true copy of an order which was duly filed and entered in the Office of the Clerk of the United States District Court for the Southern District of New York on the 19th day of April, 1977.

Dated: New York, New York
April 22, 1977

Yours, etc.

SHEA GOULD CLIMENKO & CASEY

By ______________________
A Member of the Firm
Attorneys for International Controls Corp.
330 Madison Avenue
New York, New York 10017

TO: EDWARD BRODSKY, ESQ.
Trial Counsel for Petitioners
280 Park Avenue
New York, New York 10017

UNDERWEISER & FUCHS, ESQS.
Attorneys for Petitioners
250 Park Avenue
New York, New York 10017

TO:

WILLIAM D. MORAN
Regional Administrator

MARVIN E. JACOB
Associate Regional Administrator
Securities and Exchange Commission
New York Regional Office
26 Federal Plaza
New York, New York 10007

GREGORY C. GLYNN
Assistant Chief Trial Attorney

LESTER GREEN
Special Counsel

Attorneys for Plaintiff
Securities and Exchange Commission
500 North Capitol Street
Washington, D. C. 20549

DAVID M. BUTOWSKY, ESQ.
Special Counsel
299 Park Avenue
New York, New York 10017

DORNBUSH MENSCH & MANDELSTAM, ESQS.
Attorneys for Frank G. Beatty and
Wilber J. Snipes
22 East 40th Street
New York, New York 10016

U S District Court
Filed
Apr 14 1977
SD. of NY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- -X

SECURITIES AND EXCHANGE COMMISSION, : 72 Civ. 5001 (CES)

Plaintiff, :

-against- :

ROBERT L. VESCO, et al., : **ORDER**

Defendants. :

- -X

A motion having been made by petitioners, Wade S. Malhas, Irving Horowitz, Martin Jacoby, Charles Birbara, Cornelius A. Hubner, Murray Dryer, Phil Birbara, N. E. Burgess and William Zeidman, for an order pursuant to Rule 24 of the Federal Rules of Civil Procedure permitting the said petitioners to intervene in this action as interested parties and for an order directing that a meeting of the stockholders of International Controls Corp. be called as soon as possible for the purpose of electing directors, and for other and further relief as the Court might deem just and proper.

AND defendant International Controls Corp. having appeared in response to the motion, and David M. Butowsky, Esq. (Special Counsel to International Controls Corp., appointed pursuant to this Court's Judgment entered March 16, 1973), having appeared and informed the Court of his position with respect to said motion, and the Securities and Exchange Commission having appeared and informed the Court of its position with respect to the motion and issued certain Recommendations dated March 8, 1977 which have been filed herein.

AND it having been represented to the Court by the attorneys for International Controls Corp. that the Board of Directors intends to exercise their best efforts to cause a meeting of stockholders of International Controls Corp. for the election of directors to be held on or before December 20, 1977.

NOW, IT IS ORDERED:

CES (1) That within forty-five (45) ~~twenty (20)~~ days from the date of this order, International Controls Corp. inform its stockholders, in writing, of the application of petitioners, this order, and the Recommendations of the Securities and Exchange Commission dated March 8, 1977. Said communication shall also inform stockholders of the Board's intention to hold a stockholders meeting and invite suggestions from stockholders as to appropriate candidates for election to the Board of Directors.

CES (2) That on or before August 15, 1977, Special Counsel file his report as described ~~provided for~~ in the said Recommendations of the Securities and Exchange Commission.

CES (3) That on or before October ~~21~~ 15, 1977, the Board of Directors of International Controls Corp. file their report as described ~~to~~ ~~provided for~~ in the said Recommendations of the Securities and Exchange Commission.

CES (4) That petitioners make themselves available for examination by Special Counsel (or his representative) and plaintiff at such times and places as shall be arranged by Special Counsel and plaintiff and the attorneys for the said petitioners (or failing such arrangement, as directed by this Court or its Magistrate) and the said petitioners shall produce for the inspection of said Special Counsel and plaintiff all documents in their possession or under their control relevant to the issues upon which said examinations are conducted and which are requested by him. The issues upon which petitioners are to be examined shall be those set forth in paragraph "4" of the Recommendations of the Securities and Exchange Commission dated March 8, 1977. The taking of such examinations shall be concluded on or before August 31, 1977.

(5) Special Counsel may elect to waive the examination of one or more of the petitioners upon receipt by him of such information as satisfies him that an examination of the petitioner is not necessary.

(6) In the event any party hereto wishes to oppose the petition to intervene of one or more of the petitioners for reasons relating to the issues mentioned in paragraph "4" of the Recommendations of the Securities and Exchange Commission dated March 8, 1977, said party shall advise the Court on or before September 30, 1977. The Court will then make such arrangements for the hearing or disposition of said issues.

(7) In the event that International Controls Corp. has not mailed to its common stockholders on or before November ~~20~~ 15, 1977 a notice of meeting of common stockholders for the election of directors to be held on or before December ~~20~~ 15, 1977, then any of the parties hereto may, upon at least three (3) days notice to the other parties hereto, request such further relief with respect to the holding of a meeting as the party making the request deems indicated in the circumstances. (CES)

(8) The Court retains jurisdiction of this matter for all purposes, including but not limited to, the issuance of further orders and decrees adopting or implementing the Recommendations of the Securities and Exchange Commission dated March 8, 1977.

Dated: New York, New York
April 1[illegible], 1977

s/ Charles E Stewart
U.S.D.J.

NOTICE OF DEPOSITION DATED AUGUST 5, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

72 Civ. 5001 (CES)

SECURITIES AND EXCHANGE COMMISSION,
Plaintiff,
-against-
ROBERT L. VESCO, et al.,
Defendants.

NOTICE OF DEPOSITION

SIRS:

PLEASE TAKE NOTICE, that defendant International Controls Corp. will take the deposition of the following Proposed Intervenor Plaintiffs, upon oral examination, pursuant to the Federal Rules of Civil Procedure, at the offices of Shea Gould Climenko & Casey, 330 Madison Avenue, New York, New York 10017:

WADE S. MALHAS	August 18, 1977 - 2:00 P.M.
CHARLES BIRBARA	August 19, 1977 - 10:00 A. M.
PHIL BIRBARA	August 19, 1977 - 2:00 P.M.
IRVING HOROWITZ	August 25, 1977 - 10:00 A.M.
MARTIN JACOBY	August 25, 1977 - 2:00 P.M.
MURRAY DRYER	August 26, 1977 - 10:00 A.M.
N.E. BURGESS	August 26, 1977 - 11:00 A.M.
WILLIAM ZEIDMAN	August 26, 1977 - 2:00 P.M.

Said depositions will continue from day to day until completed or until adjourned for continuation to a mutually convenient date or dates to be agreed upon among counsel. You are invited to attend and cross examine.

Dated: New York, New York
August 5, 1977

Yours, etc.
DAVID M. BUTOWSKY
SHEA GOULD CLIMENKO & CASEY
By
A Member of the Firm
Attorneys for International
Controls Corp.
330 Madison Avenue
New York, New York 10017
212-661-3200

TO:

EDWARD BRODSKY, ESQ.
Trial Counsel for Petitioners
280 Park Avenue
New York, New York 10017

UNDERWEISER & FUCHS, ESQS.
Attorneys for Petitioners
250 Park Avenue
New York, New York 10017

WILLIAM D. MORAN
Regional Administrator

MARVIN E. JACOB
Associate Regional Administrator
Securities and Exchange Commission
New York Regional Office
26 Federal Plaza
New York, New YOrk 10007

GREGORY C. GLYNN
Assistant Chief Trial Attorney

LESTER GREEN
Special Counsel

Attorneys for Plaintiff
Securities and Exchange Commission
500 North Capitol Street
Washington, D. C. 20549

DORNBUSH MENSCH & MANDELSTAM, ESQS.
Attorneys for Frank G. Beatty and
Wilber J. Snipes
22 East 40th Street
New York, New York 10016

ORDER OF HON. CHARLES E. STEWART DATED AUGUST 15, 1977

RECEIVED
CHAMBERS
JUDGE STEWART
12 AUG 1977

A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-------------------------------------x

SECURITIES AND EXCHANGE COMMISSION, :
Plaintiff, :

-against- :

ROBERT L. VESCO, et al., :
Defendants. :

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72 Civ. 5001 (CES)

ORDER GRANTING
EXTENSION OF TIME

The Board of Directors of International Controls Corp. having considered the Application dealt with in this Order and having made no objection thereto, and the Securities and Exchange Commission Staff having made no objection to the entry of this Order, the Application by Special Counsel for Extension of Time is hereby approved in the following respects:

1. The time within which Special Counsel must file his Report of Investigation is extended through November 5, 1977.

2. In all other respects this Court's Order dated April 19, 1977 remains unaffected.

Dated: New York, New York
1977

/s/ Charles E. Stewart Jr.
U.S.D.J.

ORDER TO SHOW CAUSE DATED AUGUST 25, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, : ~~72 CIV. 5001 (CES~~)

-against- : **ORDER TO SHOW CAUSE**

ROBERT L. VESCO, INTERNATIONAL :
CONTROLS CORP., et al.,
:
Defendants.

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Upon the affidavit of William J. McSherry, Jr., sworn to on the 25th day of August, 1977, the exhibits attached thereto, and upon all the prior proceedings heretofore had herein, it is hereby

ORDERED, that the defendant International Controls Corp. show cause before the Honorable Charles E. Stewart, Jr., one of the judges of this Court, at the United States Courthouse, Foley Square, New York, New York, on the 30th day of August, RO1 1977, at 10:00 o'clock a.m. IN RM 1505, or as soon thereafter as counsel can be heard why an order should not be made (a) rescinding the court-appointed directors' action in setting a record date of August 31, 1977 and a meeting date of October 18, 1977 for a meeting of shareholders of International Controls Corp. and (b) ordering the defendant to delay fixing substitute record and meeting dates for a meeting of shareholders of International Controls Corp. until (i) certain reports contemplated by an Order of this Court dated April 19, 1977 have been filed or (ii) the Order of April 19, 1977 has, on notice to all affected persons, been modified, and for such other and further relief as the Court may deem just and proper, and it is further

ORDERED, that it shall be deemed sufficient service of these papers if copies of this order, together with the papers upon which it was granted be personally delivered to Securities and Exchange Commission, New York Regional Office, 26 Federal Plaza, New York, New York 10007, Shea Gould Climenko & Casey, attorneys for International Controls Corp., 330 Madison Avenue, New York, New York 10017, David M. Butowsky, Esq., Special Counsel, 299 Park Avenue, New York, New York and Dornbush Mensch & Mandelstam, Esqs., attorneys for Frank G. Beatty and Wilber J. Snipes, 22 East 40th Street, New York, New York 10016, on or RO✓ before the 26th day of August, 1977, by 5:00 pm and it is further

ORDERED, that any answering papers be served on attorneys for petitioners and filed with the Court on or before the 29th day of August, 1977 at 5:00 o'clock p.m.

Dated: New York, New York
August 25, 1977

s/ RO
U.S.D.J.

AFFIDAVIT OF WILLIAM J. McSHERRY SWORN TO ON AUGUST 25, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

-against- : 72 Civ. 5001 (CES)

ROBERT L. VESCO, INTERNATIONAL CONTROLS CORP., et al., : AFFIDAVIT

:

Defendants.

:

---x

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

WILLIAM J. McSHERRY, JR., being duly sworn, deposes and says:

1. I am an attorney associated with the firm of Spengler Carlson Gubar Churchill & Brodsky, attorneys for petitioners, Wade S. Malhas, Irving Horowitz, Martin Jacoby, Charles Birbara, Cornelius A. Hubner, Murray Dryer, Phil Birbara, N.E. Burgess and William Zeidman (collectively "Petitioners") in this action.

2. I submit this affidavit in support of the application of the Petitioners for an order directing the court-appointed directors of International Controls Corp. ("ICC") (a) to rescind their action in setting a record date of August 31, 1977 and a meeting date of October 18, 1977 for a meeting of ICC shareholders and (b) to delay fixing substitute record and meeting dates for a meeting of ICC shareholders until (i) certain reports contemplated by an order of this Court dated

April 19 1977 (the "Order") have been filed or (ii) the Order of April 19 1977 has, on notice to all affected persons, been modified.

A. Introduction and Background

3. As indicated in papers previously filed in this action, Petitioners own in the aggregate more than 179,000 shares of ICC common stock. (Proposed Intervenor Complaint ¶2) Since 1972, ICC has been managed by court-appointed directors. In January, 1976, Petitioners sought leave to intervene in this action for the purpose, inter alia, of seeking a meeting of ICC shareholders to elect directors. Petitioners' motion was opposed by the court-appointed board of directors of ICC and by the court-designated special counsel to ICC, David M. Butowsky.

4. On March 8, 1977, the plaintiff, Securities and Exchange Commission (the "Commission"), filed its Recommendations regarding Petitioners' motion. The Recommendations of the Commission were, to summarize, as follows:

-- ICC's special counsel, David M. Butowsky, should file his report;

-- ICC's interim Board of Directors should adopt and file its own report;

-- A shareholders' meeting should be held at which ICC shareholders should elect a board of directors.

A copy of the Commission's Recommendations is annexed hereto as Exhibit A.

5. With respect to the solicitation of proxies for this long-awaited shareholders' meeting, the Commission stated:

> "Prior to the meeting a solicitation of proxies should be made in light of all information furnished by the Report of Special Counsel and the Board Report." (p. 2)

6. The Commission concluded that "Petitioners' motion for a Shareholders' Meeting should be granted on the time schedule and on the terms and conditions set forth herein." (p. 3) (emphasis supplied)

7. On April 19, 1977, this Court entered an order which directed Mr. Butowsky to file his report by August 15, 1977 and ICC's interim board to file its report by October 15, 1977. Neither report has been adopted or filed to date. A copy of the April 19, 1977 Order is annexed hereto as Exhibit B.

8. On August 22, 1977, *The Wall Street Journal* reported that ICC's interim board of directors had announced that a meeting of ICC shareholders would be held on October 18, 1977 and that shareholders of record on August 31, 1977 would be eligible to vote at this meeting. A copy of this article is annexed hereto as Exhibit C.

9. I am informed that counsel to ICC has confirmed *The Wall Street Journal* report and has stated that the special counsel's report would not be available to ICC shareholders until after the scheduled meeting date and that the report of the interim court-appointed board of directors would not be available until after the record date has passed. *The Wall Street Journal* reported that ICC would commence mailing proxy material to shareholders on or about September 8, 1977. Apparently, ICC's directors intend to make the special counsel's report and their own report available to shareholders, if at all, only after they have mailed proxy material and held a meeting to elect directors.

B. The Setting of the Proposed Record and Meeting Dates Violates This Court's April 19, 1977 Order and the Commission's Recommendations.

10. Both the Order and the Commission's Recommendations

clearly contemplated that the two reports would be submitted before a meeting of ICC shareholders would be called. The Commission's Recommendations clearly stated that the solicitation of proxies for this shareholders' meeting was to be made only after the information to be furnished by the special counsel and the interim board had come to light. (Commission's Recommendations p. 3)

11. The April 19, 1977 Order dictated that the two reports would be submitted before a meeting of ICC shareholders was to be noticed and held. (See Order ¶¶2, 3 and 7) Moreover, the Order provides for the retention of jurisdiction by the Court:

> ". . . for all purposes, including but not limited to, the issuance of further orders and decrees adopting andimplementing the Recommendations of the Securities and Exchange Commission dated March 8, 1977. . . ." (Order ¶8)

12. Petitioners are not aware of any reason why the terms of the April 19, 1977 Order should not be complied with and both reports submitted before the shareholders meeting noticed and the solicitation of proxies commenced. At the least, Petitioners submit that paragraph 8 of the April 19, 1977 Order requires ICC's interim board of directors to secure Court approval of their proposed deviation from the terms of both the Order and the Commission's Recommendations.

C. After Fourt Years, ICC Shareholders Should Have the Benefit of the Two Reports Before the Machinery for a Shareholders' Meeting Is Set in Motion.

13. As this Court well knows, ICC has been without a shareholder-elected board of directors for more than four

years. With this history in mind, the recent setting of a record date eight days after the first public announcement that neither the special counsel's Report nor the interim board's Report would be filed can only be met with suspicion. This is especially so since no reason for such haste has ever been proferred in this proceeding by the interim board or the special counsel.*

14. After this unprecedented four-year period of court supervision, it would certainly be inappropriate for ICC's public shareholders -- who have been without a voice for so long -- to have a meeting for the election of directors thrust upon them without the information to be gleaned from these two reports. No cogent reason has been proferred for the failure to file the reports. More importantly, no reason has been given for this attempt by the interim board to have the shareholders' meeting take place without an iota of the information contained in the two reports having been made public.**

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* In an affidavit submitted by special counsel David M. Butowsky dated January 20, 1977, he stated, among other things:

> "I oppose the holding of a shareholders meeting at this time because, as more fully set forth below, the duties imposed upon Special Counsel and the directors by the Consent Judgment have not been completed." (Butowsky Aff. ¶3)

** In his January 20, 1977 affidavit, Butowsky stated:

> "Although the investigation has now been substantially completed a number of critical steps remain which should be completed within the next several months. Special Counsel has commenced drafting of certain segments of his reports; others are now complete, and the remainder cannot be completed until the completion of the remaining steps of the investigation. The report of Special Counsel is a critical document.
>
> "(i) It provides the basis for the proxy statement required to be filed with the SEC and distributed to shareholders before any shareholders' meeting may be held . . . ."

D. Petitioner Malhas Has Filed Schedules 13-D and 14-B and the Setting of Record and Meeting Dates Before the Dissemination of the Two Reports is Clearly Intended to Thwart the Solicitation of Proxies by Malhas.

15. One of the Petitioners, Dr. Wade S. Malhas ("Malhas") has filed a Schedule 13-D with ICC, the Commission and appropriate securities exchanges. On July 28, 1977, Malhas filed Schedules 14-B. Copies of the Schedules 13-D and 14-B are annexed hereto as Exhibits D and E.

16. In filing the Schedules 14-B, Malhas gave notice that he was considering soliciting proxies. Less than one month later, ICC's interim board of directors announced its intention to hold a meeting of ICC shareholders to elect directors and set a record date of August 31, 1977. In addition, the board made its announcement only eight days before the proposed record date and announced that they did not know the identity of the nominees for director.

17. All ICC shareholders have a right to the fruits of these long-awaited reports of special counsel and the court-appointed trustee-directors before they elect the persons who will guide their company out of its stewardship in this Court. Malhas, however, has a separate reason for opposing the proposed actions of ICC's interim board. If Malhas is to solicit proxies, he will need the reports of these court-appointed officers to evaluate ICC's financial condition and its problems. Moreover, unlike other publicly held companies, the interim board and special counsel of ICC possess information otherwise unknown to and unavailable to ICC shareholders. Malhas, like all ICC shareholders, lacks access to this information from any other source.

18. By setting the shareholders' meeting machinery into motion before these two reports are released, ICC's court-appointed interim board of directors may well effectively deprive Malhas of an opportunity to solicit proxies. Certainly, four years of court monitoring of ICC should not culminate in the deprivation of precisely the right the Commission intended to preserve when it wrote its March 8, 1977 Recommendations, i.e., "Prior to [a shareholders' meeting] a solicitation of proxies should be made in light of all information furnished by the Report of Special Counsel and the Board Report." (p. 3)

19. If the announced actions of ICC's interim board of directors are not set aside or delayed, Malhas will be deprived of any opportunity to solicit proxies in violation of the April 19, 1977 Order and the spirit of the Order and the Commission's Recommendations.

20. Petitioners respectfully submit that the announcement by ICC's interim board of directors of a shareholders' meeting on the timetable proposed by the interim board violates the April 19, 1977 Order and the Recommendations of the Securities and Exchange Commission dated March 8, 1977 incorporated therein. After four years of court-stewardship, ICC shareholders should be afforded the opportunity to evaluate the information to be contained in these reports before the machinery for turning ICC over to elected directors is set in motion.

21. At the least, ICC's court-appointed directors should be ordered not to set into motion the machinery for a meeting of ICC shareholders until they have applied to the Court

pursuant to paragraph 8 of the April 19, 1977 Order for a modification of the terms of the order.

22. No prior application for this relief has been made in this or any other proceeding. This motion is brought on by Order to Show Cause since the court-appointed board of directors of ICC have announced their intention to mail proxy material to ICC stockholders on or before September 8, 1977, to shareholders of record on August 31, 1977.

23. For the foregoing reasons, deponent respectfully submits that the application of the Petitioners for an order directing the court-appointed directors of ICC to delay their announced setting of a record and meeting date for a meeting of ICC shareholders should be granted in all respects.

WILLIAM J. McSHERRY, JR.

Subscribed and sworn to before
me this 25th day of August, 1977.

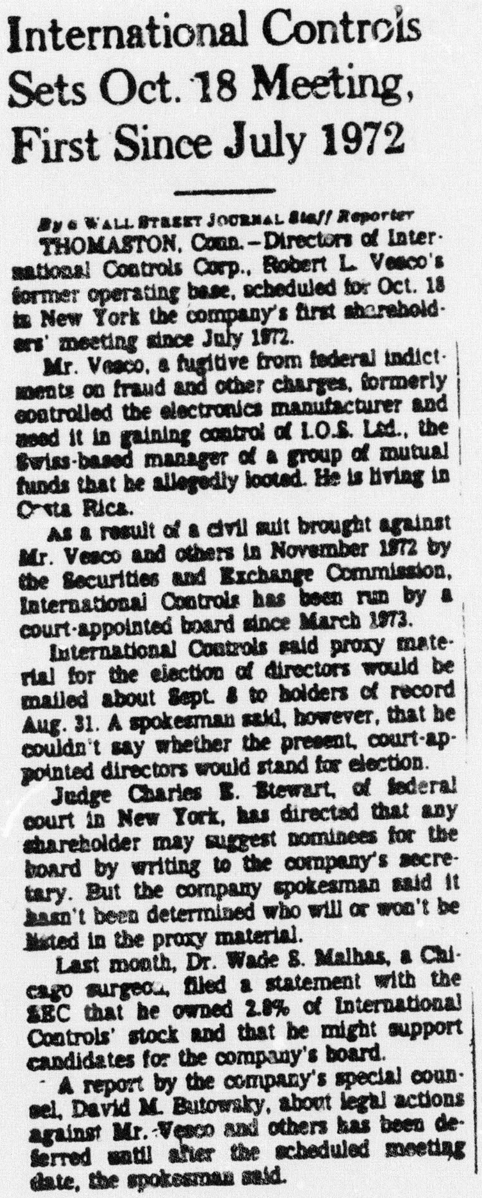
Notary Public

JOANNE M. [illegible]
NOTARY PU[illegible] York
No. [illegible]
Qualified [illegible] County
Certificate filed [illegible] York [illegible]
Commission Expires March [illegible]

EXHIBIT C

WALL STREET JOURNAL ARTICLE OF AUGUST 22, 1977

THE WALL STREET JOURNAL -- August 22, 1977



International Controls Sets Oct. 18 Meeting, First Since July 1972

By a WALL STREET JOURNAL *Staff Reporter*

THOMASTON, Conn.—Directors of International Controls Corp., Robert L. Vesco's former operating base, scheduled for Oct. 18 in New York the company's first shareholders' meeting since July 1972.

Mr. Vesco, a fugitive from federal indictments on fraud and other charges, formerly controlled the electronics manufacturer and used it in gaining control of I.O.S. Ltd., the Swiss-based manager of a group of mutual funds that he allegedly looted. He is living in Costa Rica.

As a result of a civil suit brought against Mr. Vesco and others in November 1972 by the Securities and Exchange Commission, International Controls has been run by a court-appointed board since March 1973.

International Controls said proxy material for the election of directors would be mailed about Sept. 8 to holders of record Aug. 31. A spokesman said, however, that he couldn't say whether the present, court-appointed directors would stand for election.

Judge Charles E. Stewart, of federal court in New York, has directed that any shareholder may suggest nominees for the board by writing to the company's secretary. But the company spokesman said it hasn't been determined who will or won't be listed in the proxy material.

Last month, Dr. Wade S. Malhas, a Chicago surgeon, filed a statement with the SEC that he owned 2.8% of International Controls' stock and that he might support candidates for the company's board.

A report by the company's special counsel, David M. Butowsky, about legal actions against Mr. Vesco and others has been deferred until after the scheduled meeting date, the spokesman said.

EXHIBIT D--SCHEDULE 13D

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D. C. 20549

SCHEDULE 13D

UNDER THE SECURITIES EXCHANGE ACT OF 1934

STATEMENT FILED PURSUANT TO
RULE 13d-1 OF THE GENERAL RULES
AND REGULATIONS UNDER THE SECURITIES
EXCHANGE ACT OF 1934

INTERNATIONAL CONTROLS CORP.
(Issuer to which this statement relates)

Notices and Communications
With Respect to This Statement
Should be Sent to:

Wade S. Malhas
1825 North Lincoln Plaza
Chicago, Illinois 60614

Copies to:

Edward Brodsky, Esq.
Spengler Carlson Gubar Churchill & Brodsky
280 Park Avenue
New York, New York 10017

Irwin P. Underweiser, Esq.
Underweiser & Underweiser
250 Park Avenue
New York, New York 10017

Item 1. Security and Issuer.

The title of the class of equity securities to which this Statement relates is Common Stock, par value $.10 per share (the "Shares"). The name and address of the issuer of such securities is International Controls Corp., a Florida corporation ("International" or the "Company"), 400 Watertown Road, Thomaston, Connecticut 06787.

Item 2. Identity and Background.

(a) The person filing this Statement is: Dr. Wade S. Malhas, ("Dr. Malhas"), whose business address is 1825 North Lincoln Plaza, Chicago, Illinois 60614.

(b) Residence address: 223 West Wisconsin, Chicago, Illinois 60614.

(c) and (d) Dr. Malhas has been engaged in the private practice of Orthopaedic Surgery from 1968 until the present. He is affiliated with Henrotin Hospital, St. Mary of Nazareth Hospital, Central Community Hospital, Englewood Hospital and Roseland Community Hospital, all located in Chicago, Illinois. He is an associate in the Department of Orthopaedic Surgery, Northwestern University. Prior to 1968, he was a resident in training at Michael Reese Hospital of Chicago from July 1, 1964 to June 30, 1968. He served his internship at the University of Illinois from July 1, 1963 to June 30, 1964.

(e) Dr. Malhas has not been convicted in a criminal proceeding, excluding traffic violations or similar misdemeanors, during the last ten years.

Item 3. Source and Amount of Funds or Other Consideration.

The Shares owned by Dr. Malhas and his affiliates, as listed in Item 5, were acquired as a result of purchases at an aggregate cost of approximately $128,142.44 from the private funds of the purchasers. No part of the purchase price was represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding or trading the Shares.

Item 4. Purpose of Transaction.

Dr. Malhas and his affiliates acquired the Shares for investment purposes. They reserve the right, depending upon market conditions and other factors, (i) to purchase additional shares in the open market or otherwise, (ii) to vote the Shares individually or in conjunction with other persons or business entities, for the purpose of effecting changes in the control of International by changing the composition of International's Board of Directors, or acting in favor of or against any other matter which may properly be brought before any meeting of the shareholders of the Company, (iii) to join together with others who own Shares or may have an interest in acquiring Shares for the purpose of effecting changes in the control of International by means other than by vote of shareholders, or (iv) to take any other appropriate steps to accomplish the foregoing purposes. At present, other than purchasing the Shares, Dr. Malhas has not taken any of the foregoing steps.

Dr. Malhas has no plans or proposals to liquidate the Company, sell its assets, merge it with any other person or make any other major change in its business or corporate structure. However, he reserves the right at a later date, either alone or with others, to take any of the actions referred to above.

Item 5. Interest in Securities of the Issuer.

(i) Dr. Malhas is the direct and indirect beneficial owner of 109,200 Shares of International Common Stock. The 109,200 Shares represents approximately 2.8% of the outstanding Shares, and would represent approximately 3.9% of the outstanding Shares in the event Robert Vesco and Vesco & Co. turn over their 968,993 Shares to a court-appointed receiver pursuant to a court order and such shares are cancelled.

(ii) Dr. Malhas is the direct beneficial owner of 62,600 Shares. He is the indirect beneficial owner of 46,600 Shares through his interest in (i) Dr. W. S. Malhas, S.C., Pension Plan & Trust (the "Pension Plan"), the direct beneficial owner of 18,100 Shares, and (ii) Dr. W. S. Malhas, S.C., Profit Sharing & Savings Plan & Trust (the "Profit Sharing Plan"), the direct beneficial owner of 28,500 Shares. Dr. Malhas is Trustee of the Pension Plan and the Profit Sharing Plan. The address of the Pension Plan and the Profit Sharing Plan is 1825 North Lincoln Plaza, Chicago, Illinois 60614.

Neither Dr. Malhas, the Pension Plan nor the Profit Sharing Plan has had any transactions in International Common Stock during the sixty days preceding the date hereof.

Item 6. Contract, Arrangements or Understandings with Respect to Securities of the Issuer.

None.

Item 7. Persons Retained, Employed or to be Compensated.

Inapplicable.

Item 8. Material to be filed as Exhibits.

1. Form of Press Release

SIGNATURE

I certify that to the best of my knowledge and belief the information set forth in this Statement is true, complete and correct.

Wade S Malhas

WADE S. MALHAS

Date: July 5, 1977

July 12, 1977

New York, N.Y.--Dr. Wade S. Malhas announced today that he has filed notification with the Securities and Exchange Commission (Schedule 13D) that he has acquired 109,200 shares of International Controls Corp. common stock representing 2.8 percent of the Company's outstanding shares.

In papers filed with the SEC, Dr. Malhas stated he acquired the shares for investment purposes. He also reserved the right to acquire additional shares in the open market and to vote the shares individually or in conjunction with other persons to effect changes in the current Board of Directors of International Controls Corp.

According to the papers, Dr. Malhas' shares would represent 3.9 persent of the outstanding stock in the event Robert Vesco and Vesco & Co. turn over their 968,993 shares to a court appointed receiver pursuant to a Court Order and such shares are cancelled.

# # #

EXHIBIT E--SCHEDULE 14B

SECURITIES AND EXCHANGE COMMISSION

Washington, D. C. 20549

SCHEDULE 14B

for

DR. WADE S. MALHAS

Filed pursuant to Rule 14a-11 under
the Securities Exchange Act of 1934

Relating to a proposed solicitation
to the holders of Common Stock of

International Controls Corp.
400 Watertown Road
Thomaston, Connecticut

SCHEDULE 14B

INFORMATION TO BE INCLUDED IN STATEMENTS

Filed by or on Behalf of a Participant (other than the issuer)
in a Proxy Solicitation Pursuant to Rule 14a-11(c)
Securities Exchange Act of 1934 as Amended.

Item 1. Issuer.

Name and address of the issuer to whicn this Schedule relates:

International Controls Corp ("International")
400 Watertown Road
Thomaston, Connecticut

Item 2. Identity and Background.

(a) (1) Name and business address.

Dr. Wade S. Malhas
1825 North Lincoln Plaza
Chicago, Illinois 60614

(2) Present principal occupation or employment:

I have been engaged in the private practice of Orthopaedic Surgery from 1968 until the present.

(b) (1) Residence address.

223 West Wisconsin
Chicago, Illinois 60614

(2) My material occupations, positions, offices or employments during the last ten years are as follows:

I am affiliated with Henrotin Hospital, St. Mary of Nazareth Hospital, Central Community Hospital, Englewood Hospital and Roseland Community Hospital, all located in Chicago, Illinois.

I am an assocate in the Department of Orthopaedic Surgery, Northwestern University. Prior to 1968, I was a resident in training at Michael Reese Hospital of Chicago from July 1, 1964 to June 30, 1968.

(c) During the last ten years I was not a participant in any proxy contest involving International or any other issuer.

(d) During the past ten years I was not convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors).

Item 3. Interests in Securities of the Issuer.

(a) I own beneficially, directly or indirectly, 109,200 shares of International Common Stock (the "Shares").

(b) I do not own any securities of International of record but not beneficially.

(c) See Rider 3(c) annexed hereto with respect to all securities of International purchased or sold by me within the past two years.

(d) No part of the purchase price or market value of any of the Shares specified in paragraph (c) above was represented by funds borrowed or otherwise obtained for the purpose of acquiring or holding such securities.

(e) During the past year I was not a party to any contracts, arrangements or understandings with any person with respect to any securities of International.

I am the direct beneficial owner of 62,600 Shares. I am the indirect beneficial owner of 46,600 Shares through my interest in (i) Dr. W. S. Malhas, S.C., Pension Plan & Trust (the "Pension Plan"), the direct beneficial owner of 18,100 Shares, and (ii) Dr. W. S. Malhas, S.C., Profit Sharing & Savings Plan & Trust (the "Profit Sharing Plan"), the direct beneficial owner of 28,500 Shares. I am Trustee of the Pension Plan and the Profit Sharing Plan. The address of the Pension Plan and the Profit Sharing Plan is 1825 North Lincoln Plaza, Chicago, Illinois 60614.

(g) I do not own any securities of any parent or subsidiary of International beneficially, directly or indirectly.

Item 4. Further Matters.

(a) Since March 1973, International has been under the direction of a Board of Directors appointed by the United States District Court, Southern District of New York (the "Court") as part of the settlement of the action Securities and Exchange Commission v. Robert Vesco, et al. (the "SEC Action"). I believe that the time has come for the directors to be chosen by the stockholders, and not by the Court. In this regard, in January 1976, I, together with several other stockholders, moved to intervene in the SEC Action and sought an order directing that a stockholders meeting be called as soon as possible for the purpose of electing directors. Based upon representations by counsel to International that a stockholders meeting for the election of directors would be held on or before December 20, 1977 the Court, in April 1977, ordered that International send a communication to stockholders informing them of the application to intervene, the intention to hold a stockholders meeting by December and inviting suggestions from stockholders as to appropriate candidates for election to the Board of Directors.

I have been a substantial stockholder of International for several years. I believe that election of directors by stockholders would benefit International. As stated in my Schedule 13D, dated July 5, 1977, depending upon market conditions and other factors, I may, among other things, vote my shares of International Common Stock individually or in conjunction with other persons or business entities for the purpose of effecting changes in the control of International by changing the composition of its Board of Directors.

I have decided to contact other stockholders and potential shareholders of International to determine whether they share my concern regarding the composition of a future Board of Directors. This decision was made in light of the proposed forthcoming stockholders meeting to be held no later than December 20, 1977.

(b) Since January 1, 1976, neither I nor any of my associates has had any transactions or proposed transactions to which International or any of its subsidiaries was or is to be a party of the character set forth in Item 7(f) of Schedule 14A to the Securities Exchange Act of 1934.

(c) Neither I nor any of my associates has any arrangement or understanding with any person with respect to any future employment by International or its affiliates or with respect to any future transactions to which International or any of its affiliates will or may be a party.

(d) It is expected that I will initially contribute $1,000 to be used toward contacting stockholders and other persons with a view to the solicitation of proxies.

Item 5. Signature.

I certify that the statements made in this statement are true, complete and correct, to be best of my knowledge and belief.

7-25-77
Date

Wade S. Malhas
DR. WADE S. MALHAS

Rider 3(c)

Trade Date	Shares Purchased
8/ 3/76	1,000
8/20/76	1,000
1/ 7/76	1,000
1/ 7/76	200
1/ 8/76	200
1/12/76	200
1/12/76	1,000
1/12/76	1,500
1/12/76	700
1/13/76	500
1/13/76	1,000
1/13/76	500
12/31/76	400
9/ 8/75	10,000
12/18/75	500
7/20/76	400
8/ 3/76	600
10/13/76	5,000
6/15/76	1,500
4/22/76	1,800
4/22/76	6,400
9/17/76	2,400
6/10/76	1,100
4/23/76	1,100
8/ 3/76	400
7/21/76	2,500
7/21/76	1,000
7/ 6/76	1,300
6/15/76	1,500
6/18/76	1,500
6/ 7/76	2,500
4/27/76	5,600
4/21/76	10,000

Trade Date	Shares Sold
9/ 8/75	10,000
4/22/76	6,400
4/14/76	6,900

AFFIDAVIT OF SHELDON D. CAMHY SWORN TO ON AUGUST 29, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - - - - - - - - - - - - - - - -X 72 Civ. 5001 (CES)

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

ROBERT L. VESCO, INTERNATIONAL CONTROLS CORP., et al.,

Defendants.

- - - - - - - - - - - - - - - - - - - -X

AFFIDAVIT IN OPPOSITION

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

SHELDON D. CAMHY, being duly sworn, deposes and says:

1. I am a member of the firm of Shea Gould Climenko & Casey, general counsel to defendant International Controls Corp. ("ICC"). I make this affidavit in opposition to the motion of proposed intervenors for an order rescinding the resolution of the board of directors of defendant ICC which has set a special meeting of stockholders for October 18, 1977 and the record date for said meeting at August 31, 1977. This affidavit is also submitted in opposition to the other relief requested in said motion and in answer to the affidavit of William J. McSherry, Jr., sworn to August 25, 1977, submitted in support thereof.

2. The order of this Court dated April 18, 1977 referred to by Mr. McSherry does not fix a specific date for the holding of the meeting nor, indeed, does it even direct that a meeting be held. The Court refrained from granting a specific direction upon the representation to the Court (recited in its order) that ICC's board of directors would exercise their best efforts to cause a meeting of stockholders to be held on or

before December 20, 1977. The order further recites that the application before it was for an order directing that such a meeting be called "as soon as possible." The decision of the board of directors on August 18, 1977 to hold a meeting on October 18, 1977 with record date set at August 31, 1977 meets both the requirements of the representation given to the Court by ICC and the request by the moving parties. It is "as soon as possible" before December 20, 1977. Directly following its decision of the date on which to hold the meeting, the board released this information to the press and proposed intervenors learned of it.

3. The Court will recall that initially ICC recommended that a meeting be deferred until after the report of Special Counsel was received. This was part of ICC's belief that a meeting ought to be deferred until a number of major corporate objectives were achieved if those objectives could be achieved near term, viz: during calendar 1977. (See Shinn Affid., 1/20/77, par. 6) This included the possibility of settlement of the IOS contingent claims and resolution of the problem of the Vesco stock. ICC's board agreed that were it not for such objectives, a stockholders meeting ought to be held "as soon as possible" as requested by proposed intervenors. Special Counsel had first expected a report in March or April of 1977. The SEC recommendations suggested that Special Counsel's report be filed June 30, 1977. At the request of Special Counsel, this date was fixed by the Court at August 15, 1977.

4. In late July of 1977, it became apparent that Special Counsel's report might not be ready by August 15 and, indeed, might not be ready in time to be used for the preparation of the board's report and sufficiently in advance of a stock-

holders meeting as originally contemplated. My partner Milton Gould and I and Special Counsel met with Mr. Marvin Jacob, Associate Regional Administrator (Corporate Regulation) at the New York offices of the SEC on July 13, 1977. Mr. Gould told Mr. Jacob that Mr. Butowsky had indicated that the report would not be ready by August 15. Mr. Gould then conveyed to Mr. Jacob the suggestion that he had received from management of ICC that rather than continue to delay a meeting for Special Counsel's report that a meeting be held in the absence of such a report. Mr. Gould questioned whether such a procedure might be followed. Mr. Jacob said that not only could it be followed but that it should be followed. He was convinced that a meeting ought not be delayed and that he did not see why Special Counsel's report was critical either to the making of a report by ICC's board of directors in the form required by the Court order or to the preparation of proxy material for a stockholders meeting.*

5. We reported this conversation back to the board of directors of ICC which then proceeded to give serious consideration to making its own report and holding a stockholders meeting without first receiving Special Counsel's report. The revised target set by Special Counsel for his report was a date early in November. The report is expected to be extremely voluminous, detailed and comprehensive. It would not have been possible for the board to assimilate such a report, make its decisions and comments based thereon, and have proxy material prepared and cleared for a stockholders meeting in December. On the other

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*This was consistent with expressions made to us in June of 1977 by officials of the SEC that a stockholders meeting was overdue and could not be delayed beyond December 20, 1977 irrespective of problems delaying the report of Special Counsel or matters involving the pending negotiations with the IOS claimants.

hand, to hold such a meeting in December of 1977, after the report had been issued, but without incorporating its effects into the board's report and the proxy material, would also create an unacceptable situation. A meeting scheduled before the expected date of the report would at least avoid either delaying a meeting beyond 1977 or issuing a board report and proxy material which did not assimilate an available report of Special Counsel. Accordingly, on August 18, 1977 the board set a meeting date for October 18, 1977. This was so that a meeting could be held promptly after the Summer consistent with the time needed to clear proxy material with the SEC and to mail it at such time when stockholders would be back from vacation. Consistent with that program, the board of directors has prepared its own proposed report, a copy of which is annexed hereto as Exhibit A. ICC plans to formally issue the report in its final form sometime early in September and distribute it to stockholders with the Notice of Meeting and Proxy Statement. (A draft of which is annexed hereto as Exhibit B.) Directly thereafter, it issued its press release announcing the meeting date and record date. (Exhibit C) The proposed report of directors and draft proxy material were promptly sent for review to the SEC Division of Corporate Finance and Division of Corporate Regulation. Thus, at the time the Notice of Meeting is sent out to stockholders, the board will have issued its report fully in compliance with the Court order of April 19, 1977.*

6. Among the reasons for the board's decision to pro-

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*Indeed, failing unforeseen delays, the board will have furnished its report by August 31, 1977, the date set in the recommendations made to the Court by the SEC.

ceed in this way was the fact that the report of Special Counsel was beginning to become an increasingly adverse factor in the negotiations with IOS claimants. From time to time, their counsel asked when the report would be ready. This was presumably in the hope or expectation that its content might assist them in advancing their claims against ICC. Another reason affecting the board's decision was the recommendation by the Commission that Special Counsel "persevere" in his duties even after the holding of a stockholders meeting and the election of a board by the stockholders. It had been the board's hope that the report of Special Counsel followed by a stockholders meeting would terminate all activities of Special Counsel and all judicial administration of ICC. Since the Court had indicated that it would retain jurisdiction after a stockholders meeting until all IOS problems were resolved and the Commission had recommended that Special Counsel ought to continue his work after a stockholders meeting, any report which could be submitted prior to a stockholders meeting would not necessarily be a complete report but only a report during the progress of an ongoing investigation. Thus, it was apparent that the holding of a stockholders meeting would neither terminate the expense and inconvenience of having the Company under the administration of the Court and under investigation by Special Counsel, nor would it provide the stockholders with a definitive and complete statement by Special Counsel as to the results of his investigations.

7. Mr. McSherry's affidavit makes a number of assertions to which I will now respond:

(i) Mr. McSherry suggests (par. 3) that ICC originally "opposed" the holding of a meeting. That is not so. ICC's board simply urged the Court that it would be better that certain objectives be achieved before a meeting if that could be done and still have a meeting before the end of the year 1977. When it became apparent that this could not be done, the board proceeded with its underlying philosophy that a stockholders meeting not be delayed unnecessarily.

(ii) Mr. McSherry places great emphasis on the record date set by the board. (Par. 13) The By-Laws (Excerpted herein as Exhibit D) require that the record date be no more than 60 days or less than 10 days prior to the meeting. August 31, 1977 complies with that requirement. I fail to understand what the record date for the meeting has to do with the lack of a report of Special Counsel. I also question why proposed intervenors, who assert that they have been stockholders for years, are so concerned about the record date.

(iii) Although ICC was aware that proposed intervenor Malhas had filed a Schedule 13D, ICC was not aware that he had filed Schedule 14B. We had heard rumors to that effect and had caused a search to be made of the SEC records, which search apparently did not pick up the filing by Dr. Malhas of his 14B.* In any case, the Schedule 14B specifically recites Dr. Malhas' objective which is the securing of a stockholders meeting "as soon as possible" (See par. 4) and "no later than December 20, 1977." I do not understand why he faults October 18, 1977. The setting of the record date and meeting date cannot possibly prejudice proposed intervenors in any legally recognized way. The dates are consistent with their own objectives of a prompt meeting.

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*Although, in accordance with the Court's order and SEC recommendation, ICC advised stockholders of its intention to hold a meeting for the election of directors and invited suggestions from stockholders as to nominees for the board, Dr. Malhas did not respond to that invitation.

8. In performing its function of fixing the date for the stockholders meeting, the board of directors was not required to seek the concurrence of the proposed intervenors or their counsel. A date was fixed consistent with the board's desire to have a meeting at the earliest time consistent with orderly procedure. Public announcement of the date was made directly after it was fixed.

WHEREFORE, it is respectfully requested that the within motion be denied in all respects.

Sheldon D. Camhy

Sworn to before me this
24th day of August, 1977.

Charlotte Durand
Notary Public

CHARLOTTE DURAND
NOTARY PUBLIC, State of New York
No. 31-4506085
Qualified in New York County
Commission Expires March 30, 19 79

EXHIBIT A

REPORT OF BOARD OF DIRECTORS OF INTERNATIONAL CONTROLS CORP.

REPORT OF THE BOARD OF DIRECTORS

OF

INTERNATIONAL CONTROLS CORP.

AUGUST 18, 1977

REPORT OF THE BOARD OF DIRECTORS
OF
INTERNATIONAL CONTROLS CORP.

In compliance with the
Order of the
United States District Court for the Southern District of New York
Dated April 18, 1977

In the matter of the
Securities and Exchange Commission
-against-
Robert L. Vesco, et al.
72 Civ. 5001 (CES)

August 18, 1977

PREFACE

In the letter to you dated June 2, 1977, you were notified of the Order issued on April 18, 1977 ("Order"), by the U. S. District Court, Southern District of New York ("Court"), providing, among other things, that the stockholders of International Controls Corp. ("ICC") be informed of the intention of the ICC Board of Directors to hold a stockholders meeting for the election of Directors on or before December 15, 1977. The Order was issued after receipt of recommendations from the Securities and Exchange Commission ("SEC") and the Board of Directors of ICC. This Report is written in compliance with that Order, to advise all stockholders of the status of ICC. Rather than recite herein the provisions of the April 18th Order and the recommendations of the SEC, you are referred to Appendix A, ICC's Quarterly Report on Form 10-Q, for the quarter ended June 30, 1977; Exhibit D thereof quotes both of these documents in full.

CORPORATE STATUS

Since March 1973, ICC has been managed by a Board of Directors appointed by the Court, pursuant to a Final Judgment of Permanent Injunction and Appointment of Special Counsel and Directors, with the consent of ICC and the SEC, in an action captioned *Securities and Exchange Commission v. Robert L. Vesco, et al*. The provisions of the March 1973 Order are fully described in Note 18 (pages F-24 and F-25) in ICC's Annual Report on Form 10-K for the year ended December 31, 1976, which accompanies this Report as Appendix B.

Throughout the period since March 1973, no meeting of ICC's stockholders has been held; the Court-appointed Board of Directors has managed ICC's affairs; and the Special Counsel has investigated the actions of previous management. During this period, stockholders have been kept advised through the issuance of Annual Reports to stockholders for 1972 through 1976. In addition, Annual Reports on Form 10-K for the years 1972 through 1976, as well as all required periodic and interim reports through June 30, 1977 have been filed with the SEC. Such reports are public documents, available for review at the SEC.

During the period since March 1973, ICC's finances and operations have recovered and stabilized. To review accomplishments:

...Assets were reassessed and stated at fair values in the 1972-73 Annual Report.

...Eleven nonprofitable or marginal operations and properties were disposed of during 1973 and 1974; additionally, one major Division was sold for cash in 1974 to reduce long-term debt and establish working capital.

...On January 1, 1974 the management of both operating subsidiaries was centralized at ICC Headquarters in Thomaston, Connecticut.

...Except for one operating unit, which incurred a loss in 1974 due to a contract dispute with the U.S. Government, all continuing operations have been profitable since 1974. Together, they have contributed steadily increasing profit.

...In 1976, income from continuing operations before income taxes was $5.2 million, the highest in ICC's history.

...During the past 4½ years:

-- long-term debt has been reduced to $20.6 million from $48.4 million;

-- stockholders' equity has increased to $20.6 million from $7.2 million;

-- debt-to-equity ratio has decreased six-fold and stood at 1.1 to 1.0 at June 30, 1977.

The present Board earlier stated the view that certain pending matters should be completed before holding a stockholders meeting. Among those matters was the filing of the Report of Special Counsel. Special Counsel has assembled a great amount of data through his investigations; however, he has advised that the complexities of the alleged wrongdoings of previous management, their international aspects, and the absence of several principals from U.S. jurisdiction, among other things, have combined to make it impossible for him to complete his Report in time to be used in preparation for a stockholders meeting during 1977.

As noted in its recommendations to the Court preceding the April 18th Order, the Securities and Exchange Commission recommended to the Court that even after the election of directors by the stockholders, Special Counsel should persevere in his activities with respect to alleged wrongdoings of prior management and also continue to render guidance to the Board of Directors in connection with litigation or settlement of claims deriving from the actions of previous management. Moreover, under the Court Order and the recommendations of the Securities and Exchange Commission, the Court will retain jurisdiction over ICC even after a stockholders meeting for the election of directors.

In view of the foregoing circumstances, the Board of Directors has determined that a meeting of stockholders should not be delayed to await the Report of Special Counsel and that the best interests of the stockholders will be served by holding a meeting at an early date. The proxy material which accompanies this letter has been prepared for the purpose of holding a Special Meeting of Stockholders to elect Directors on October 18, 1977.

REPORT ON MATTERS SPECIFIED IN THE COURT ORDER OF APRIL 18, 1977

A. Brief Statement of Property, Liabilities, and Financial Condition:

ICC's finances have improved markedly during the past 4½ years. They are stated fully in the ICC Annual Report on Form 10-K for the year ended December 31, 1976 (Appendix B) and its Quarterly Report on Form 10-Q for the quarter ended June 30, 1977 (Appendix A).

For the first half of this year, ICC's income before extraordinary items amounted to $1,749,000, or $0.46 per common share, on sales of $40,752,000. This compares with income before extraordinary items of $973,000, equal to $0.26 per common share, on sales of $40,149,000 for the similar period in 1976.

For the first six months of 1976, ICC recorded extraordinary items, as restated, which consisted of a tax benefit equivalent to utilization of net operating loss carryovers of $1,201,000, or $0.31 per common share, and a net gain of $105,000 or $0.03 per common share from the early retirement of debt.

Net income for the first six months in 1977 amounted to $1,749,000, equivalent to $0.46 per common share, compared with net income, as restated, of $2,279,000, or $0.60 per common share, in the similar 1976 period.

Operational results for the first half of 1977 have been more profitable than anticipated. Similar results are not expected for the second half of this year. However, income before extraordinary items for all of 1977 should surpass 1976.

The following is a Summary of ICC's operations during the past 5½ years:

The following Summary of Operations includes the operations of International Controls Corp. and Subsidiaries for the five years ended December 31, 1976 and for the six months ended June 30, 1977. This data has been summarized from consolidated financial statements for the five years ended December 31, 1976, wherein the accountants have issued a disclaimer of an opinion of the financial statements taken as a whole, and for the six months ended June 30, 1977, which are unaudited. The Summary of Operations should be read in conjunction with the consolidated financial statements and notes thereto appearing in ICC's Form 10-Q (Appendix A) and Form 10-K (Appendix B).

	Summary of Operations	Six Months Ended June 3 1977
Operating Results:	Net sales	$40,752,215
	Gross profit	8,756,857
	Selling, general and administrative expenses	4,850,754
	Interest expense	839,261
	Income (loss) from continuing operations, before income taxes*	3,214,061
	Income taxes on continuing operations	1,465,000
	Income (loss) from continuing operations	1,749,061
	Income (loss) from discontinued operations(a)	—
	Income (loss) before extraordinary items	1,749,061
	Extraordinary items(b)	—
	Net income (loss)	$ 1,749,061
	Weighted average number of shares used in per share computations(c)	3,789,796
	Per share of common stock (c):	
	Income (loss) from continuing operations	$ .46
	Income (loss) from discontinued operations	—
	Income (loss) before extraordinary items	.46
	Extraordinary items	—
	Net income (loss)	$ .46
Other Financial Data:	Current assets	$32,725,835
	Current liabilities	$10,216,395
	Working capital	$22,509,440
	Ratio of current assets to current liabilities	3.2-1
	Depreciation expense	$ 932,790
	Long-term debt including current installments	$21,612,100
	Stockholders' equity	$20,568,615
	Debt to equity ratio	1.1-1
	Book value per common share	$ 5.41

*After minority interests in subsidiary.

Year Ended December 31

1976	1975	1974	1973	1972
$73,065,694	$87,610,364	$70,561,206	$65,365,495	$ 61,376,890
16,737,316	15,962,951	11,698,008	6,066,066	7,555,090
8,864,177	8,849,330	7,966,748	7,740,651	8,908,222
2,049,536	2,427,417	3,131,703	3,604,244	4,133,951
5,228,965	4,437,331	896,225	(7,314,236)	(4,219,341)
3,293,000	2,622,000	654,000	—	—
1,935,965	1,815,331	242,225	(7,314,236)	(4,219,341)
—	—	1,404,190	3,089,395	(939,654)
1,935,965	1,815,331	1,646,415	(4,224,841)	(5,158,995)
2,103,609	2,122,870	3,177,945	862,688	(32,231,006)
$ 4,039,574	$ 3,938,201	$ 4,824,360	$ (3,362,153)	$ (37,390,001)
3,785,445	3,780,945	3,780,945	3,781,308	3,793,692
$ .51	$ .48	$ .07	$ (1.94)	$ (1.12)
—	—	.37	.82	(.24)
.51	.48	.44	(1.12)	(1.36)
.56	.56	.84	.23	(8.50)
$ 1.07	$ 1.04	$ 1.28	$ (.89)	$ (9.86)
$30,994,371	$29,979,481	$32,344,457	$34,914,873	$ 32,903,186
$11,205,471	$11,272,041	$15,456,368	$23,016,894	$ 20,048,208
$19,788,900	$18,707,440	$16,888,089	$11,897,979	$ 12,854,978
2.8-1	2.7-1	2.1-1	1.5-1	1.6-1
$ 2,003,502	$ 1,545,226	$ 1,863,817	$ 2,556,163	$ 3,264,368
$22,639,100	$30,131,476	$34,756,136	$43,943,115	$ 48,431,300
$18,743,884	$12,553,350	$ 8,615,681	$ 3,791,321	$ 7,159,526
1.2-1	2.4-1	4.0-1	11.6-1	6.8-1
$ 4.95	$ 3.32	$ 2.28	$ 1.00	$ 1.89

(a) The income from discontinued operations in 1974 is net of applicable federal and state income taxes of $2,464,000. See Notes 2 and 14 of Notes to Consolidated Financial Statements for additional information regarding income taxes.

(b) Extraordinary items comprised of gains (losses) include:

	1976	1975	1974	1973	
Loss on sale of assets of discontinued operations					$ (753,0
Tax benefit equivalent to utilization of net operating loss carryovers	**$1,201,000**	$1,887,000	$3,043,000		
Elimination of liabilities in excess of required amounts, no tax effect					157,21
Write-down of:					
Cost of investment in excess of net assets acquired					(29,531,54
Certain machinery and equipment to reflect a permanent decline in value or economic utility based upon an independent appraisal as of December 31, 1972, no tax effect					(4,306,08
Idle, obsolete and scrap equipment to realizable value, no tax effect					(192,65
Property held for sale to estimated realizable value, no tax effect					(1,027,87
Investment in two minor subsidiaries of All American Industries, Inc. to estimated realizable value, no tax effect					(413,39
1968 purchase costs originally allocated to small tools and sundry equipment, no tax effect					(973,82
Deferred relocation, start-up, transportation and installation costs of operating unit relocated from California to Texas which due to the 1972 operating loss of this unit makes the continued deferral of these costs inappropriate, no tax effect					(1,679,36
Amounts due from IOS or entities and/or persons now or formerly associated with IOS for certain administrative, legal or travel charges (expenses of jet aircraft) and an estimated provision ($300,000) for similar charges paid in 1973 which are deemed uncollectible, no tax effect					(2,111,091
Previously deferred gain on sale of assets to All American Engineering Company, due to write-down in 1972 of carrying value of assets previously sold, net of income taxes of $310,000)					3,982,280
Provision for flood loss, no tax effect					(140,000)
Gain on sale of patent, no tax effect					77,120

	1976	1975	1974	1973	197
Loss arising from sales of interests in and dividends from IOS, no tax effect					$ (173,60
Gain on repurchase of debentures, net of expenses and write-offs of unamortized debt expense, less applicable income taxes of $217,000, $182,000 and $215,000 in 1976, 1975 and 1974, respectively, and minority interests of $1,981 and $1,460 in 1975 and 1974, respectively	**$1,019,774**	$ 235,870	$ 233,202	$862,688	3,475,424
Provision for professional fees and other expenses relating to pending litigations and uncollectible amounts due from terminated employees and directors, no tax effect					(1,724,973
Provision for settlement of litigation ($161,000) and federal income tax liabilities ($832,000) assumed in the acquisition of Electronic Specialty Co., no tax effect					(993,000
All American Industries, Inc., Radiation International, Inc. and Datron Systems, Inc. minority shareholders' interest in the extraordinary items of those subsidiaries					5,511,537
Radiation International, Inc. and Datron Systems, Inc. minority shareholders' interest in the 1972 losses of those subsidiaries absorbed by International Controls Corp. due to the liquidation of the minority shareholders' interest in the net assets of the subsidiaries					(1,414,177
Unamortized debt discount and issue expense due to prepayment of notes payable, less income tax benefit of $108,000 and $181,000 in 1976 and 1974, respectively	**(117,165)**		(195,154)		
Equity in earnings of foreign affiliate resulting from forgiveness of mortgage liability			96,897		
	$2,103,609	$2,122,870	$3,177,945	$862,688	$ (32,231,006)

(c) Income (loss) per share is based on the weighted average number of shares outstanding during the period. Assumed exercise of dilutive stock options would not have a material dilutive effect on the income (loss) per share.

The fully diluted income (loss) per share is not presented because when shares reserved for conversion or exercise of outstanding debentures, warrants and stock options are included, their inclusion would have an antidilutive effect on the income (loss) per share.

In February 1972, the Company distributed the shares of Fairfield General Corporation as a dividend in kind to its common stockholders. The Company has not paid any cash dividends on its common stock during the periods presented.

B. Description of Current Operations of ICC, Together with Recommendations as to the Nature of Future Operations:

(1) Corporate Profile: ICC conducts a diversified engineering and manufacturing business through two subsidiaries -- Datron Systems, Inc. ("DSI") (90% owned by ICC) and All American Industries, Inc. ("AAI") (81% owned by ICC). Both subsidiaries are headquartered at ICC Corporate Headquarters in Thomaston, Connecticut.

ICC has 10 operating units in six states, and in Ireland, England and the Federal Republic of Germany, and employs about 1,800 people serving a variety of markets.

Approximately 44% of ICC's products are purchased by the U.S. Defense Department either directly or through Defense prime contractors; another 37% of ICC's products are sold to commercial customers in the United States, and about 19% of all sales are to international customers. The aerospace industry, domestic and foreign, both military and commercial, purchases about 33% of ICC's products.

Datron's Operating Units:

Tech Systems Corp. at Thomaston, Connecticut, designs and manufactures special electric motors and power controls, primarily for U.S. Navy shipboard applications, as well as microwave waveguide and other passive components for commercial communications networks and military navigation and guidance systems.

Nicholson Division in Wilkes-Barre, Pennsylvania, designs and manufactures industrial steam traps, floats and exhaust mufflers for use in large installations, such as refineries and materials processing plants.

Electronic Specialty Division in Portland, Oregon, produces electro-mechanical relays for use in communications, navigation and computer equipment.

EDMCO Division in Los Angeles, California, designs and manufactures electro-mechanical and hydro-mechanical actuators, chiefly for installation in aircraft.

Electro-Metall Export, GmbH in Dusseldorf, Germany, is engaged in marketing, repair and assembly of aircraft components and electronic devices.

All American's Operating Units:

Intercontinental Manufacturing Company, Inc. at Garland, Texas, is a fabricator of steel bomb bodies, missile motor casings, precision aluminum, titanium and magnesium forgings and other metal products for the aerospace industry.

Anchor Metals, Inc. is headquartered at Hurst, Texas, with additional manufacturing plants in Anniston, Alabama, and Fort Madison, Iowa. Anchor designs and manufactures steel poles and towers for public and privately-owned electric utility systems.

All American Engineering Company at Wilmington, Delaware, designs and produces aircraft arresting gear for airfield installations worldwide, as well as airborne recovery systems for the U.S. military services and a line of commercial instruments.

Befab Safeland, Ltd. at Shannon, Ireland, produces aircraft arresting gear for airfield installations worldwide, and...

AAI International, Ltd., London, England, coordinates the sales of these and other products for All American Engineering and Befab Safeland.

(2) Review of Operations:

Datron Systems, Inc.

Tech Systems Corp. had a good year in 1976, reporting a 19% rise in pre-corporate earnings on slightly increased sales. This was the sixth consecutive year in which Tech Systems surpassed its previous year's earnings performance.

Tech Systems produces precise power systems -- special electric motors, motor generators and related controls -- as well as microwave waveguide and associated components.

Within the precise power systems' product line there are no standard systems; each product is "special."

The U.S. Navy remains the largest user of these precise power systems, both for new ship construction and for retro-fit programs. Typical applications include driving radar and fire control antennae, missile launchers, gun turrets, ammunition hoists, as well as various kinds of pumps.

One important new contract received in 1976 requires delivery, beginning in 1977, of nine special 200kw generators and controls to be used for main ship's power aboard a new class of coastal mine sweeper. Destined for delivery to a friendly foreign navy, these ships are constructed entirely of wood to eliminate magnetic characteristics; hence the design of Tech Systems' generators incorporates unique nonmagnetic features.

Principal waveguide customers are the commercial communications companies and the manufacturers of military avionics systems. Waveguide is specially fabricated hollow metal tubing with precise electrical characteristics. This "electronic plumbing" preserves signal strength while carrying the high frequency microwave signals between antenna and remote transmitter and receiver stations.

Several promising development contracts are expected to mature into waveguide production programs in 1977. Among them is an award by The Singer Company for 500 sets of waveguide and microwave reflectors for new helicopter radar navigation systems. Follow-on contracts from this initial order could be substantial, particularly if a similar program is extended to fixed-wing aircraft.

A major disappointment for Tech Systems was the Government's recent cancellation of the B-1 Bomber, a potentially long-run, high volume production program for advanced microwave waveguide. This cancellation will affect this unit's shipment projections through the early 1980's. However, all engineering and pre-production manufacturing costs are fully recoverable and the experience gained on this program will enhance Tech Systems' ability to enter similar state-of-the-art programs with other airframe manufacturers.

EEMCO Division primarily produces electro- and hydro-mechanical actuators for military and commercial aircraft. Sales in 1976 were 23% ahead of the previous year and contribution to pre-corporate profit rose 54%.

EEMCO is a name well known in international aerospace circles. Its actuators convert electrical and hydraulic power into straight line or rotary motion. They provide the muscle to move wing flaps and other flight control surfaces, operate airstairs, raise and lower cockpit canopies, open and close cargo doors and weapons bays.

Major production programs in 1976 included actuators for all models of the Boeing 747. Aboard certain freighter versions, EEMCO supplies 44 separate actuators for four main systems -- nose lift, upper and lower cargo doors and the on-board cargo loader.

In August 1977 EEMCO received a $2.6 million order for 75 ship sets of cargo door actuators for both the freighter and passenger versions of the 747. Shipments of these actuator systems will start in 1978 and extend through 1979. EEMCO's participation in this program is expected to provide good future production volume since an aircraft actuator program of this type may remain active from 10 to 20 years.

EEMCO's order backlog currently includes actuator production for such on-going programs as the Lockheed P3C, F-104 and S3A aircraft, the Northrop F-5, the VFW 614 and the Airbus A-300. The VFW 614 and the Airbus are European commercial aircraft programs with excellent potential.

Nicholson Division manufactures industrial steam traps and related energy conserving devices. In 1976 this Division's sales and pre-corporate earnings increased by 10% and 24%, respectively, to the highest levels in its history. At year end its backlog of new orders stood at a record high.

Nicholson's principal customers are the processing industries. Large quantities of live steam are used by these customers to power machinery and process materials. Nicholson's traps play a key role in the efficient use of this steam by removing water and non-condensable gases from steam lines. If not operating properly, a single trap can waste as much as $2,000 annually in steam-producing fuel, as well as reduce the efficiency of equipment by as much as 20%.

In the fall of 1976, Nicholson received its largest single order ever for steam traps. It called for approximately 7,000 of Nicholson's new modular assemblies. Sold only for new plant constructions, these modular units consist of steam trap, valves, and all associated piping -- pre-assembled and delivered on site, thus significantly reducing the customer's engineering and installation costs. While most of these modular traps will be delivered in 1977, the potential for additional orders from this customer is favorable.

Elektro-Metall Export, GmbH was acquired in December 1975. It had been primarily a repair and marketing organization with close ties both to EEMCO and to the European aerospace industry. In 1976, its first full year under corporate direction, it enjoyed a healthy sales volume and operated profitably before provision for the geographical relocation described below.

In 1976, Elektro-Metall was awarded its first major production contract which called for the pitch and roll trim actuators for the "Tornado," the new Multi Role Combat Aircract (MRCA) being built by a consortium of German, British and French aerospace companies.

In mid-1977, this unit received a $1.2 million follow-on contract for 126 ship sets of MRCA actuators. Shipments against this order will start in 1978. To perform against the MRCA contract, Elektro-Metall developed a facility capable of producing actuator systems and other electro- and hydro-mechanical products. It also maintains its international marketing capability and currently serves several other ICC units.

In late 1977, Elektro-Metall will move its plant from Dusseldorf to Ingolstadt (Bavaria). This relocation will provide more capable production facilities, as well as locate Elektro-Metall closer to many of its key customers.

Electronic Specialty Division increased its contribution to pre-corporate profit in 1976 by 4% despite the phasing out of its gyroscope product line. In mid-1976, because of diminishing markets and low profit contribution, it was decided to discontinue gyroscope production and concentrate all of this Division's resources on its other product line -- electro-mechanical relays. As a result, Electronic Specialty's sales for 1976 decreased by 12%.

This Division has also been manufacturing and marketing electro-mechanical relays since 1945. During the past year, it was able to increase margins on relay sales, thus reducing the overall impact on pre-corporate profit caused by the gyroscope phase out.

Relays are tiny switches that act to open and close power circuits in electrical, electronic and electro-mechanical systems. Most take up less than one cubic inch of space.

Principal applications for this Division's relays are in military communication and avionics systems. However, in 1976 Electronic Specialty began developing a new generation of commercial relays which are expected to find wide application in business machines, telephone and television equipment and automated industrial controls.

All American Industries, Inc.

Sales of Intercontinental Manufacturing Company, Inc. (IMCO) and Anchor Metals, Inc., decreased almost 29% from the previous year. However, their combined pre-corporate income showed an improvement of 10% over their record 1975 performance.

IMCO's sales were most seriously affected, declining 30% in 1976. Bomb bodies and rocket motor casings, which comprise 83% of its product line, accounted for almost all of this decline. This was due mainly to procurement reductions by the Department of Defense. However, because of pricing structure changes and enhanced manufacturing efficiency, IMCO was able to surpass its 1975 pre-corporate earnings by 38%.

IMCO received additional awards for Castor II and IV rocket motor casings in 1976 and in early 1977 an $8.8 million follow-on contract for MK84 bomb bodies. When combined with existing orders for Hawk and Minuteman motor casings, these bookings should maintain IMCO's production at 1976 levels through 1977.

Losses incurred in the production of sea mine casings have been fully reserved in 1976 for the entire contract, which will be completed in 1977.

IMCO is the largest of ICC's operating units, and has long been one of the nation's leading metal fabricators. Its reputation as an innovator in high strength alloys has earned it prime contractor status and the right to deal directly with the U.S. and foreign governments for their procurements of ordnance and rocket motor casings.

IMCO continues its efforts to develop a stable commercial base for its precision metalworking capability. Two of its commercial contracts -- one for a special microwave reflector/ antenna and the second for fabricated seamless pipe -- have good production potential. In 1977 IMCO received the first sizeable commercial order for fabricating seamless pipe amounting to $800,000.

The near term appears bright for the precision and conventional light metal forgings produced by IMCO's Bergman Department. New orders for certain ordnance components, coupled with an increased demand for forgings for new commercial aircraft assure good production volume for this product line through 1977.

Anchor Metals, Inc., a major manufacturer of transmission line towers and poles for public utilities and Government utility agencies, dropped back to normal sales activity levels in 1976 after recording abnormally high sales and earnings -- the highest in its history -- in 1975. And although its 1976 sales declined by 29%, Anchor's pre-corporate profit was very close to 1975's record high, primarily due to its purchase of steel early in the year at favorable prices.

Anchor's towers and poles figure prominently in the power distribution systems of 47 states and 11 foreign countries. The company is headquartered in Hurst, Texas, with two other plants strategically located in Anniston, Alabama, and Fort Madison, Iowa, to provide a freight advantage in a highly competitive market.

During this past year, Anchor was awarded a $5.4 million contract from Arizona's Salt River Project Agricultural Improvement & Power District for the fabrication of 600 pre-tested, galvanized steel towers. These towers, which are being fabricated to very rigid specifications, will stretch across 180 miles of rugged terrain in Central Arizona. Carrying 500,000 volt power lines, these towers will play a key role in the state's rural electrification program.

Most of this order, which is one of the largest in Anchor's history, will be shipped in 1977. Additional smaller contracts were received in 1976 from Arkansas Power and Light and Ohio Edison.

All American Engineering Company, Befab Safeland, Ltd., and AAI International, Ltd. collaborate in the engineering, manufacture and worldwide marketing of aircraft arresting gear. Foreign governments account for the preponderance of their sales, and, over the years, this group has furnished more than 1,300 arresting gear systems to 50 nations.

Design of these runway safety systems is based on an intimate knowledge of kinetic energy absorption and control. These systems are used to prevent aircraft losses during landing or take-off emergencies, and are capable of bringing to a safe, gentle stop the largest aircraft currently in service.

Combined sales of these companies in 1976 decreased 35%, primarily due to anticipated delays in procurements by foreign governments. Nevertheless, an unusually high volume of spare parts sales, which carry relatively high margins, held profits as a percentage of sales at slightly more than the 1975 level.

All American's energy absorption and control expertise was recently extended to include launch and recovery systems for Remotely Piloted Vehicles (RPVs) -- a promising new field that seems destined to become a major factor in future military operations. All American has developed a family of special equipment for use with small (mini) and medium (midi) sized RPVs. Currently under test by several agencies, these new systems can operate from fixed or mobile land stations, as well as from naval vessels.

(3) Future Operations:

Over the past four years, the Board has worked to conserve and sustain ICC's assets and to direct investment of these assets to maximize profits. The philosophy was not so much to encourage rapid sales growth as it was to mold a stable, profitable company with accepted product lines solidly based in mature markets.

In line with this conservative posture, the Board concentrated its efforts and ICC' resources on operating units with the greatest near-term potential. It set out by simplifying and streamlining the corporate organization, then it imposed strong financial controls, stressed asset management and installed able, experienced management at all levels of the corporation

As a re[illegible]here has been a steady improvement in ICC's operating results and financial condition over this period which clearly indicates ICC's progress. Record pretax income in 1976 of $5.2 million was achieved despite a decline in sales; this is confirmation of four years of successful effort to increase all operating margins. However, it is a disappointing note in ICC's 1976 performance that, after steadily increasing through 1973-75, sales receded from $87.6 million in 1975 to $73.1 million in 1976. The decrease was not a company-wide phenomenon; new records [illegible]or both sales and earnings were established in 1976 by one of ICC's two operating subsidiaries, Datron Systems, Inc.

On the other hand, sales of ICC's other subsidiary, All American Industries, Inc. decreased from $58.1 million in 1975 to $40.3 million in 1976. This was due to cyclical factors which existed in both years 1975 (to increase) and 1976 (to decrease) sales.

Despite its reduced sales level, AAI's earnings remained near the 1975 record level. AAI's higher earnings on lower sales is an anomaly which could not -- and is not expected to -- continue. Rather, this 1976 performance was due to: substantially increased efficiency in ordnance production at IMCO; favorable steel purchases by Anchor Metals, Inc. for utility transmission towers; a sales mix at All American Engineering Company and Befab Safeland, Ltd., which included unusually high shipments of arresting gear spare parts; and improved pricing and contract administration throughout this subsidiary.

Military Sales

Apart from the contingent liabilities and tax claims described elsewhere that could seriously limit ICC's future progress, the Board is well aware that it will not be easy to maintain momentum at the rate the Company has experienced during the past 3½ years.

ICC's major dependence on Government and aerospace sales is a large factor in its future. The Aerospace Industry appears to have good prospects for the next two or three years, though some military programs probably will be slowed down by the new Administration, and foreign military sales very likely will be somewhat curtailed.

In recent months we have witnessed an erosion in ICC's domestic and foreign government backlogs. The cancellation of the B-1 bomber had a significant effect on Tech Systems' long range shipment projections for microwave waveguide. All American Engineering had its backlog severely reduced by a discontinuance of an Air Force catapult program and stretch-outs of several arresting gear and mid-air recovery system contracts.

IMCO, a prime contractor to the U.S. and foreign governments for ordnance and rocket motor casings, also has had a reduction in several domestic missile programs and military aid programs for friendly foreign nations.

Commercial Sales

To correct this situation we have stimulated all operating units to develop additional participation in commercial products and markets.

For example:

...Electronic Specialty Division, almost 100% a military subcontractor, is close to completing the development of a new line of commercial relays which are expected to find wide application in business machines, telephone and television equipment and automated industrial controls.

...EEMCO Division, primarily a manufacturer of electromechanical actuators for aircraft, has developed and is currently marketing a line of fluid control valves for such diverse markets as pollution control, agricultural irrigation and automatic food dispensing. Over the past two years, sales of these valves have increased significantly, and this could develop into a major product line for EEMCO in the not too distant future. ... As part of its effort to diversify from its heavy dependence on domestic and foreign military contracts, All American Engineering Company has developed an industrial manufacturing capability. Although still on a relatively small scale, this unit is now engaged in manufacturing a new, licensed product, an adjustable arbor for electric coil winding applications; the production of automated epoxy dispensing systems for manufacturers of electronic components; and the custom fabrication and assembly of process control equipment.

...IMCO is ICC's largest operating unit. Over the years, its production has also been almost 100% in support of military programs. Recently, however, its precision metalworking capabilities have been applied to several small commercial programs which could develop into long duration, high volume manufacturing. The most promising of these are the production of seamless pipe from solid metal billets, and the fabrication of reflector/ antennas for automated microwave landing systems which could be installed in commercial airports during the 1980s.

While these products and the new capabilities they represent may not become major factors in ICC's future in this decade, they are typical of the commercial programs that could favorably change ICC's military/commercial sales mix in the 1980s. Like most long range programs, they will require the investment of time and money.

Because the ultimate outcome of litigation related to IOS which involves ICC and the effect, if any, of that litigation on the financial position of ICC are not presently determinable, ICC's independent accountants are unable to state an opinion on ICC's consolidated financial statements for 1976. This "no opinion" situation has continued since 1972; and it restricts the availability of credit lines causing some operating difficulties, particularly in obtaining the performance bonds required on some major contracts of Anchor Metals.

However, ICC reserves a large portion of its cash to meet partial bonding requirements on present and future contracts. The net result is that ICC must carry more cash than is normally desirable for a company of its size.

Corporate Restructuring

Combination of ICC's two subsidiaries -- DSI and AAI -- together with ICC into a single company would enhance the coherence of ICC's operations, finance, and management. It would also achieve substantial operating economies and clarify the position of the subsidiaries' minority stockholders. However, this restructuring must await the resolution of the IOS litigation.

Labor Relations

ICC's relations with all employees are good; and labor contract negotiations during 1976 were successfully concluded.

Nevertheless, if United States labor should make widespread demands for higher rewards, ICC could not avoid a general rise in labor costs. Therefore, we have taken careful inventory of our production equipment and are replacing older equipment with more efficient machines, in order to maintain high productivity. 1977 is the first year in which ICC has been able to allocate funds for new plant equipment substantially greater than the annual depreciation of old equipment. This is a most important step, because all manufacturing costs are rising: taxes, EPA, and OSHA regulatory costs, distribution and energy costs, as well as labor, all are involved and are under constant scrutiny in order to accomplish the most efficient production.

Energy

Energy conservation programs initiated in 1974 have paid handsome dividends. Despite increased use of energy at most units to meet 1976 production, costs have stayed level or even have decreased in some cases. However, several of ICC's plants experienced brief shortages of energy supply during the past winter, and ICC shares the dependence of its geographical operating areas on available supplies as well as costs of energy; prolonged shortages or exceptional rise in costs could damage operating results.

ICC's future performance is bound to be influenced by the success of the new Administration not only in controlling inflation but also in establishing a sound energy policy --

matters which are inseparably linked. If these two factors remain favorable, 1977 operations should continue on a positive trend.

C. Description of Liabilities of ICC, Including All Contingent Liabilities Arising From Actual, Threatened, or Reasonably Expected Litigation:

ICC's primary exposure remains that inherent in the litigation between ICC and IOS over contingent liabilities to IOS. Recent developments have made exposure in tax matters a secondary consideration. However, both litigation and tax problems could have negative impact on ICC's future, in a degree that cannot be predicted.

A description of all liabilities of ICC, including all contingent liabilities, is contained in the Consolidated Financial Statements of ICC, including the Notes thereto, contained in ICC's Annual Report on Form 10-K for the year ended December 31, 1976, attached hereto as Appendix B; also see ICC's Quarterly Report on Form 10-Q for the quarter ended June 30, 1977, attached hereto as Appendix A. Reference is also made to Note 18 -- Litigation -- on pages F-24 through F-33 of the Annual Report on Form 10-K, and to Part II, Item 1 -- Legal Proceedings -- on pages 11 and 12 of the Quarterly Report on Form 10-Q for a description of contingent liabilities of ICC arising from actual, threatened, or reasonably expected litigation; to Note 10 -- Commitments, Contingencies and Other Comments -- on pages F-17 through F-19 of the Annual Report on Form 10-K for a description of certain additional contingent liabilities of ICC; and to Note 14 -- Income Taxes -- on pages F-21 through F-23 of the Annual Report on Form 10-K for a description of certain contingent liabilities of ICC for income taxes.

As discussed in Note 18, under the caption "Litigation Involving the Company Relating to IOS" (third paragraph of subparagraph a) on page F-29 of the Annual Report on Form 10-K, ICC has for some time been engaged in discussions with representatives of the Liquidators of IOS and former IOS owned and controlled entities. The purpose of these discussions was to determine whether a basis existed for ICC to secure a release of claims from those entities arising from events and transactions occurring at a time when Robert L. Vesco was in control of ICC and caused it or its subsidiaries to enter into certain transactions with IOS or with respect to shares or assets of former IOS affiliates.

The persons with whom ICC is actively negotiating are representatives of IOS (parent company) and three Dollar Funds (Fund of Funds, International Investment Trust and Venture Fund). However, the representatives of IOS and the Dollar Funds are in communication with several other IOS related entities and it is the objective of ICC ultimately to achieve a settlement which will encompass claims by as many of the IOS related entities as is possible or practicable. As reflected in Note 18 to the Annual Report on Form 10-K, ICC has continued to extend the statute of limitations, both to IOS, the Dollar Funds and to other IOS related entities in order that negotiations may proceed constructively.

In the settlement discussions, ICC has received settlement proposals from the IOS Dollar Funds, which are, in the opinion of management, substantially in excess of what ICC can afford or should prudently pay for the settlement of the claims involved. ICC has so advised the IOS Dollar Funds and is continuing negotiations and discussions in an effort to reduce the settlement amounts.

In connection with the discussions, in July 1977, ICC received a letter from the attorneys for Venture Fund, which sets forth in brief the basis for Venture Fund's claim against ICC. The principal claim presented relates to the liquidation of Venture Fund's substantial U.S. securities portfolio during a time when it is alleged that ICC (through Vesco) controlled Venture Fund. Such liquidation is alleged to have been followed by improper investment and/or misappropriation of the proceeds. The amount of the claim set forth in the letter is $41,000,000, subject, however, to possible reduction by reason of salvage by Venture Fund in the event it makes recoveries against Vesco and related entities of the proceeds misappropriated. The letter asserts the claim, included as part of the larger claim, that the $7,500,000 received by ICC at the time it disposed of its IOS interests in June of 1972 were actually funds misappropriated from Venture Fund, which should be returned to Venture Fund.

In connection with the same discussions, ICC has also received a letter from counsel for Global Holdings Limited and

Global Financial Limited, both companies in liquidation in the Bahamas. The letter sets forth a claim for the return of $7,350,000 paid by Global Financial Limited to ICC in connection with the purchase by Global Financial Limited of certain common stock and promissory notes of IOS controlled entities on or about June 3, 1972. This appears to be the same sum of money referred to above in the Venture Fund claim. The only grounds stated by Global Holdings Limited and Global Financial Limited for seeking recovery of the $7,350,000 is "fraud." In addition, Global Financial Limited claims an unspecified amount of money estimated to be "in excess of $1,000,000" for reimbursement of administration and management services for ICC, including the payment of a portion of the salaries of certain personnel of ICC.

It is expected that in the course of the discussions and negotiations additional particulars with respect to claims will be received from IOS-related entities participating in the settlement discussions.

D. Recommendations Which Would Serve as a Prophylactic Against the Recurrence of Events Alleged in (the SEC) Action (72 Civ. 5001):

In its Complaint initiating the litigation which, as to the Company, was settled by the Final Judgment and Order of March 1973 appointing Special Counsel and Directors, the SEC alleged various acts and deeds by the Company and certain individual defendants in violation of the anti-fraud, filing and proxy provisions of the Federal securities laws. Among them were: failure to disclose certain activities to investors in ICC stock; filing with the SEC and issuance to the public of certain reports which falsely set forth and concealed material facts concerning certain of the defendants' activities; improper reporting of earnings and misstatements relating thereto; and filing of false and misleading proxy materials with the SEC.

Determined, intelligent criminals have been able to defeat the laws of social justice for thousands of years. Therefore, it is indeed difficult to prescribe prophylactic measures which, of certainty, will prevent recurrence of the kind of events alleged in the SEC Complaint. Nevertheless, everything possible must be done to defeat such criminal aims.

It is believed that the following measures will be helpful in preventing events such as those alleged in the SEC Complaint:

a. A strong, independent Board of Directors, with a positive majority whose interests in the Company, while important, do not dominate their personal interests. The Board should have appropriate committees, always including an audit committee comprised of outside directors, to monitor management performance.

b. Prevention of any single element of management, whether he be Chief Executive Officer, Director, Treasurer, Counsel, or anyone else, from dominating the management machinery to the end that other views, advice, recommendations, and actions have inconsequential standing. This requires appropriate checks and balances and a "separation of powers" within the Company, quite consistent with the Constitutional principles and practices which are the basis of United States political and social organization. If such checks and balances should fail to operate, for any reason, outside directors must have ready access to outside independent counsel.

c. Prevention, similar to b, above, of single-point management domination of outside professionals who perform work for the Company, i.e., Outside Counsel; Investment Bankers; Management Consultants; Public Relations Consultants; and all others. Each should feel required and able to advise and propose in their best objective judgment, not necessarily in accordance with preconceived plans of management.

d. Fair and adequate compensation of the Company's management so as to encourage performance and integrity. Management should not be permitted to dominate Board action, nor vice versa; they should act as checks and balances on each other. Competent and qualified independent accountants and general counsel must adhere rigidly to the ethics of their professions. If conflicts of interest cloud their judgments, this should be severely punished in our system of law.

In all, these prophylactic recommendations require that each and every element of management not only be professionally competent, but also be strong and capable of presenting independent, objective thought, recommendations, and judgments to the Board and not feel constrained to speak in accordance with any preconceived plans. This, in turn, requires that the Board of Directors be comprised of not only members who provide continuity of management knowledge and expertise (the "inside" Directors), but also of a majority of "outside" members of established professional capabilities who bring expertise in areas of interest to the Company and bring to bear independent business or other professional acumen. Above all, Directors must place the interests of the Company as a whole above personal gain and must hold a totally objective view of the Company's affairs and the interests of the stockholders.

Respectfully submitted,

Charles S. Desmond
Charles S. Desmond

John Mosler
John Mosler

George D. Gould
George D. Gould

Allen M. Shinn
Allen M. Shinn

EXHIBIT B--PRELIMINARY PROXY MATERIAL

47906 2nd PROOF OF AUGUST 19, 1977
Bowne of New York City (212) 924-5500

PRELIMINARY COPY

INTERNATIONAL CONTROLS CORP.

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS

To the Stockholders of
International Controls Corp.

NOTICE IS HEREBY GIVEN that a special meeting of stockholders of International Controls Corp. will be held at the Biltmore Hotel, Madison Avenue at 43rd Street, New York, New York, on October 18, 1977 at 10:30 A.M., for the following purposes:

1. To elect directors; and
2. To transact such other business as may properly be brought before the meeting.

The Board of Directors has fixed the close of business on August 31, 1977 as the record date for the determination of stockholders entitled to notice of and to vote at the meeting.

By Order of the Board of Directors,

WILLIAM C. RAGALS, JR.
Secretary

September 8, 1977

Whether or not you expect to be present at the meeting, please date and sign the enclosed proxy and return it promptly in the enclosed envelope. If you attend the meeting and vote in person, the proxy will not be used.

INTERNATIONAL CONTROLS CORP.
400 Watertown Road
Thomaston, Connecticut 06787

PROXY STATEMENT

This statement is furnished in connection with the solicitation of proxies by the management of International Controls Corp. to be voted at a special meeting of stockholders of the Company referred to in the foregoing Notice. All proxies received pursuant to this solicitation will be voted. Stockholders who execute proxies may revoke them at any time before they are voted. This statement and the accompanying proxy are being mailed to stockholders of the Company on or about September 8, 1977.

PRINCIPAL HOLDERS OF VOTING SECURITIES

The Company has outstanding 3,898,645 shares of Common Stock which are entitled to vote at the meeting, each share being entitled to one vote. Only stockholders of record at the close of business on August 31, 1977 will be entitled to vote at the meeting.

In December, 1976, upon the failure of Robert L. Vesco to comply with the order of the United States District Court for the Southern District of New York (the "Court") to turn over to Andrew L. Maloney, as receiver for the benefit of the Company, the 968,843 shares of Common Stock beneficially owned by him, of which 122,463 shares were held of record by him and 846,380 shares were held of record by Vesco & Co., Inc., arrangements were made to comply with the Court's order by cancelling such shares and issuing replacement shares to such receiver. (See Note 18 — "Litigation — *International Controls Corp.* v. *Robert L. Vesco, et al.*" — of Notes to Consolidated Financial Statements included in the Company's Annual Report on Form 10-K for the year ended December 31, 1976, included as part of the Report of the Board of Directors accompanying this proxy statement (the "Form 10-K").) The 968,843 shares of Common Stock now held in the name of such receiver constitute 24.8% of the outstanding Common Stock of the Company. Such shares will be counted for quorum purposes but will not be voted.

In January, 1976, certain stockholders of the Company moved in the Court to intervene in the action entitled *Securities and Exchange Commission* v. *Robert L. Vesco, et al.*, and requested that the Company be directed to hold a meeting of stockholders for the election of directors. (See Note 18 — "Litigation — *Settlement of Securities and Exchange Commission Lawsuit*" — of Notes to Consolidated Financial Statements included in the Form 10-K.) In July, 1977, one of such stockholders filed a Schedule 13D with the Securities and Exchange Commission and the Company in which he set forth, among other things, his beneficial ownership of shares of Common Stock of the Company. Such stockholders may constitute a "group" as that term is used in Section 13(d)(3) of the Securities Exchange Act of 1934. As shown by the records of the Company, as of August 19, 1977, such stockholders as a group owned of record an aggregate of 212,300 shares of Common Stock of the Company, constituting 5.4% of the outstanding shares of such class. The Company has no information with respect to the beneficial ownership of shares of its Common Stock owned by such stockholders, except as set forth in the Schedule 13D filed by one of such stockholders in which he stated that as of July 5, 1977, he was the direct and indirect beneficial owner of 109,200 shares of such Common Stock, constituting approximately 2.8% of the shares of Common Stock then outstanding.

As of August 19, 1977, all directors and officers of the Company as a group beneficially owned an aggregate of 76,500 shares of Common Stock of the Company, constituting 2% of the outstanding shares of such class. In addition, on that date directors and officers of the Company held options to purchase an aggregate of 12,000 shares of Common Stock of the Company, or an additional 0.3% of such shares which would be outstanding if all such options were exercised.

ELECTION OF DIRECTORS

At the meeting 10 directors are to be elected to hold office until the next annual meeting and until their successors have been elected and qualified. The next annual meeting of stockholders of the Company is scheduled to be held on the last Tuesday in April, 1978, pursuant to the By-laws of the Company. It is the intention of the persons named in the enclosed form of proxy to vote for the election as directors of the persons named in the table below. If any such nominee should become unavailable for any reason, which the management has no reason to anticipate, the proxy holders reserve the right to substitute another person of their choice in his place. The information concerning the nominees and their security holdings has been furnished by them to the Company.

Name	Principal Occupation and Business Experience	Beneficial Ownership of Shares of Common Stock as of August 19, 1977
William H. Burgess	has been a management consultant for over five years. He was Chairman of the Board of Electronic Specialty Co. until it was acquired by the Company in 1969.	50,000
Charles S. Desmond(1)	has been engaged in the private practice of law and counsel to the firm of Diebold and Millonzi, attorneys at law, since his retirement from the bench in 1966. He was chief judge of the New York State Court of Appeals and chief judge of the State of New York. He is a visiting professor of law at Cornell University and the State University of New York and a director of City Title Insurance Co.	none(2)
George D. Gould(1)	has been President, Chief Executive Officer and a director of The Madison Fund, Inc., a large closed-end investment fund, since June, 1976. Prior thereto he was Vice Chairman of the Board of Directors of Donaldson, Lufkin & Jenrette, Inc., an asset management firm, and Chairman of the Board of Directors and Chief Executive Officer of Donaldson, Lufkin & Jenrette Securities Corporation. He is Financial Chairman and a director of the Municipal Assistance Corporation for the City of New York. He is also a director of First National Stores, Inc. and Denison Mines, Ltd. and Chairman of the New York State Mortgage Agency, the New York State Housing Finance Agency, the New York State Medical Care Facilities Finance Agency and the New York State Project Finance Agency.	none(2)
Milton S. Gould	is a senior partner in the law firm of Shea Gould Climenko & Casey, New York, New York, which is General Counsel for the Company.	none
Harvey L. Karp	has since February, 1973 served as Vice Chairman of the Board of Directors of Monogram Industries, Inc., a diversified manufacturing and real estate development concern. He has been associated with Monogram Industries for over 20 years, having held several executive offices including Executive Vice President, Chief Operating Officer and Financial Vice President.	2,000

Name	Principal Occupation and Business Experience	Beneficial Ownership of Shares of Common Stock as of August 19, 1977
J. Hugh Liedtke	has been Chairman of the Board of Directors and Chief Executive Officer of Pennzoil Co. and its predecessor companies for more than 10 years. He is a trustee of Rice University and Baylor Medical College.	none(3)
John Mosler(1)	has been Chairman of Board of Directors of the Company since 1973. Since March, 1977, he has been associated with Bruns, Nordeman, Rea & Co., Inc. as director of acquisitions and mergers. He is a director of Brinks Inc. and former Chairman of the Board and Chief Executive Officer of The Mosler Safe Company.	none(2)
Bernard L. Schwartz	has since 1972 been Chairman of the Board and Chief Executive Officer of Loral Corporation, a manufacturer primarily of electronic systems and equipment. He is also a director of Reliance Group, Inc., Reliance Insurance Company, Commonwealth Land Title Insurance Co. and United Pacific Life Insurance Co.	none
Allen M. Shinn(1)	has been Vice Chairman, President and Chief Executive Officer of the Company and Chairman of the Board of each of its publicly-owned subsidiaries since 1973. He is also a director of Pennzoil Co. and Loral Corporation. He retired from the Navy in 1970 as a Vice Admiral after serving throughout the world in Naval Aviation. He also served as Commandant of Midshipmen at Annapolis, as Chief of The Bureau of Naval Weapons and in his final active duty post as Commander, Naval Air Forces, Pacific Fleet.	none(2)(4)
Elmer A. Sticco	has been employed in various senior executive capacities by the Company or its subsidiaries since 1968. He has been Executive Vice President and Chief Operating Officer of the Company since April, 1973; President, Chief Executive Officer and a director since May, 1972 of Datron Systems Inc., a publicly held subsidiary of the Company; and President and Chief Executive Officer since January, 1974 and a director since November, 1973 of All American Industries, Inc., a publicly held subsidiary of the Company.	56,000(5)

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(1) Messrs. Desmond, George D. Gould, Mosler and Shinn were appointed as directors of the Company in March, 1973 by the Court. (See Note 18 — "Litigation — *Settlement of Securities and Exchange Commission Lawsuit*" — of Notes to Consolidated Financial Statements in the Form 10-K.) The other nominees have not previously served as directors of the Company.

(2) Messrs. Desmond, George D. Gould, Mosler and Shinn do not own stock of the Company as they deemed it inappropriate as Court-appointed directors to purchase such stock.

(3) A corporation of which Mr. Liedtke is an officer, director and stockholder owns 5,[illegible] shares of Common Stock of the Company.

(4) Admiral Shinn owns 1,000 shares of Common Stock of all American Industries, Inc. ("AAI") and $10,000 principal amount of 7¼% Convertible Subordinated Debentures of AAI, a publicly owned subsidiary of the Company. Such debentures are convertible into shares of Common Stock of AAI at the rate of 41.851 shares per $1,000 principal amount. In addition, Admiral Shinn's wife owns 3,200 shares of Common Stock of the Company, beneficial ownership of which is disclaimed by Admiral Shinn.

(5) In addition, Mr. Sticco owns 200 shares of Common Stock of Datron Systems, Inc. ("Datron"), a publicly owned subsidiary of the Company.

Remuneration of Directors and Officers

The following table shows the aggregate direct remuneration paid by the Company and its subsidiaries during the fiscal year ended December 31, 1976 to each director of the Company and each of the three highest paid officers of the Company whose direct remuneration exceeded $40,000 and to all directors and officers of the Company as a group.

Name of Individual or Identity of Group	Capacities in Which Remuneration Was Received	Aggregate Direct Remuneration (1)	Estimated Annual Benefits Upon Retirement (2)
Allen M. Shinn	President (Chief Executive Officer)	$ 50,000(3)	None
Elmer A. Sticco	Executive Vice President (Chief Operating Officer) (4) (5)	$127,000	$24,000
William C. Ragals, Jr.	Vice President, Secretary and Corporate Counsel (4) (5)	$ 62,000	$19,300
George L. Hebert	Vice President and Treasurer (4) (5)	$ 54,200	$11,100
All directo[illegible]ficers as a group (8 perso[illegible])		$369,400(3)	—

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(1) No officer or director of the Company who is also an officer or director of either AAI or Datron receives any direct compensation from such subsidiary; in the case of joint offices or directorships, all compensation is paid by the Company. The Company allocates its general and administrative expenses among itself and its subsidiaries based on estimations of time spent. In addition, there is a management agreement between AAI and the Company (See "CERTAIN TRANSACTIONS".)

(2) The pension plan provides benefits based upon career average compensation; however, the above estimates are based on prior service credit and 1976 compensation level. The benefits listed are amounts accrued for employment with the Company or its subsidiaries through December 31, 1976.

(3) Pursuant to an order of the Court, Admiral Shinn's salary as President of the Company was fixed at $50,000 per annum, and the fees of Messrs. Desmond, George D. Gould and Mosler, as directors of the Company, were fixed at $12,000 per annum.

(4) The Company had in effect for 1976 an Executive Incentive Compensation Plan providing for the grant of cash incentive bonuses to certain key executives in addition to annual salary. The amount paid is contingent on many factors, but is primarily dependent on the Company's financial results in relationship to its annual budget and is approved by the Board of Directors. Included in the remuneration set forth above were cash incentive bonus payments of $40,000 to Mr. Sticco, $16,000 to Mr. Ragals, and $12,000 to Mr. Hebert.

(5) The Company has employment agreements with Messrs. Sticco, Ragals and Hebert. Such agreements provide for base annual salaries and expiration dates, as extended, as follows: Mr. Sticco — not less than $76,000 — June, 1980; Mr. Ragals — not less than $46,000 — July, 1980; and Mr. Hebert — not less than $42,200 — July, 1979.

Options

The following table shows all options to purchase any securities from the Company which were granted since January 1, 1976, to each director of the Company and each of the three highest paid officers of the Company whose aggregate direct remuneration exceeded $40,000 and to all directors and officers of the Company as a group.

	Elmer A. Sticco	William C. Ragals, Jr.	George L. Hebert	All directors and officers as a group (8 persons)(1)
Common Stock				
Granted — January 1, 1976 to August 19, 1977.				
Number of shares	16,500	4,500	4,500	28,500
Average per share option price	$ 2.22	$ 2.22	$ 2.22	$ 2.22
Exercised — January 1, 1976 to August 19, 1977				
Number of shares	35,000	6,000	6,000	50,500
Aggregate option prices of options exercised	$ 48,840	$ 3,960	$ 3,960	$ 59,070
Aggregate market value of shares on date options exercised	$109,375	$18,750	$18,312	$157,374
Unexercised — at August 19, 1977				
Number of shares	—	4,500	4,500	12,000
Average per share option price	—	$ 2.22	$ 2.22	$ 2.22

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(1) No directors hold any options to purchase stock of the Company.

CERTAIN TRANSACTIONS

Certain officers and directors of the Company are also officers and/or directors of publicly owned subsidiaries of the Company. The Company does not consider that any of its present officers or directors has a material interest in such subsidiaries. No present officer or director of the Company owns any securities of such subsidiaries except that one officer of the Company owns 200 shares of Datron Common Stock and one director of the Company, who is also a director of AAI, owns 1,000 shares of AAI Common Stock and $10,000 principal amount of AAI's 7¼% Convertible Subordinated Debentures. (See "ELECTION OF DIRECTORS.")

Transactions between the Company and its subsidiaries consist of agreements respecting federal income taxes, payments of principal and interest under the subsidiaries' debentures held by the Company, allocation of insurance premiums and miscellaneous other direct payments maintained on an open account basis. In addition, there is a management agreement (terminating December 31, 1979) between AAI and the Company pursuant to which the Company provides certain general corporate services to AAI, including, but not limited to, corporate planning, internal audit and legal services, and tax administration. The Company charged AAI $244,000 for services pursuant to the management agreement during 1976. In December, 1976, the Company and Datron amended the agreement between them respecting federal income taxes so as to permit Datron to accrue rather than pay in cash to the Company amounts equal to tax payments Datron would have to pay to the Internal Revenue Service were Datron a separate corporation.

In connection with a $3,000,000 unsecured short term revolving line of credit between AAI and two banks, the Company has subordinated in favor of the two banks all debt due it from AAI in the event of a default by AAI under the credit agreement. The Company has also agreed that it will not adversely affect its ownership of AAI stock.

The Employment Agreement between the Company and Mr. Sticco provided, among other things, for a $96,000 termination benefit payable to Mr. Sticco on certain terms, conditions and contingencies. The $96,000 fund was placed in escrow pursuant to an Escrow Agreement. In March, 1977, the Employment Agreement was amended to terminate the Escrow Agreement and the $96,000 termination benefit was released from escrow and delivered to Mr. Sticco.

REPORT OF THE BOARD OF DIRECTORS

Pursuant to an order of the Court, the Board of Directors of the Company has issued its report with respect to its management of the affairs of the Company since the appointment of the directors by the Court in March, 1973. A copy of the Report, including the Form 10-K and the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 1977, accompanies this proxy statement.

GENERAL

The management does not know of any matters other than the foregoing that will be presented for consideration at the meeting. However, if other matters properly come before the meeting, it is the intention of the persons named in the enclosed proxy to vote thereon in accordance with their judgment.

The Board of Directors has retained the firm of S. D. Leidesdorf & Co., who have been the Company's auditors since 1973, as independent accountants to report on the consolidated financial statements of the Company for the fiscal year ending December 31, 1977 and to perform such other services as may be required of them. Representatives of S. D. Leidesdorf & Co. are expected to be present at the meeting with the opportunity to make a statement if they desire to do so, and to be available to respond to appropriate questions.

The Board of Directors of the Company has an audit committee consisting of Messrs. George D. Gould and John Mosler.

In addition to the solicitation of proxies by use of the mails, some of the officers, directors, and regular employees of the Company, none of whom will receive additional compensation therefor, may solicit proxies by telephone, telegraph or personal interview, the cost of which will be borne by the Company. Arrangements will also be made by the Company for the forwarding, at its expense, of soliciting material by nominees, custodians and fiduciaries to their principals. The Company has retained the firm of D. F. King & Co., which specializes in the solicitation of proxies, to assist therein. The fee of such firm, estimated at $7,500, and its out-of-pocket expenses will be paid by the Company.

All stockholders are urged to sign, date and return promptly the enclosed form of proxy in the enclosed return envelope, whether or not they intend to be present in person at the special meeting.

By Order of the Board of Directors,

ALLEN M. SHINN
President

September 8, 1977

EXHIBIT C--PRESS RELEASE DATED AUGUST 19, 1977

INTERNATIONAL CONTROLS CORP.
400 Watertown Road
Thomaston, Connecticut 06787
Telephone: (203) 283-8205
TWX: 710-475-2049

CONTACT: John E. Hurley

For Immediate Release:

THOMASTON, CT., August 19, 1977 -- The Board of Directors of International Controls Corp. announced today that a Special Meeting of Stockholders for the election of directors will be held in New York City on Tuesday, October 18, 1977. Record date for common stockholders eligible to vote is Wednesday, August 31, 1977. It is expected that proxy material will be mailed to stockholders about September 8, 1977.

# # #

EXHIBIT D--CERTIFICATE OF INCORPORATION AND BY-LAWS OF INTERNATIONAL CONTROLS CORP.

ARTICLES OF INCORPORATION

OF

INTERNATIONAL CONTROLS CORP.

WE, the undersigned, hereby associate ourselves together for the rpose of becoming a corporation, organized under the laws of the State Florida, by and under the provisions of the laws of said State, provid-g for the formation, liabilities, rights, privileges and immunities of corporation for profit.

FIRST: The name of the Corporation shall be International Controls Corp. The principal place of business of the Corporation shall be at 2305 Atlantic Boulevard, Pompano Beach, Broward County, Florida.

SECOND: The general nature of the business and objects and purposes to be transacted, promoted or carried on are to do, as fully and to the same extent as natural persons might or could do, all things hereinafter mentioned:

1. To engage in all types of services with respect to Cryogenics and in the analysis, service, sales, distribution and manufacture of any chemical or physical substance in connection therewith and to handle in the foregoing manner any and all other types of service, sale or manufacture of chemical and physical products in the utilization of chemical and physical matter in civilian add military applications and in the service, sale, use and manufacture of all tools and equipment in connection with the foregoing and to patent devices with respect thereto and to purchase and acquire equipment and test facilities concerning all of the foregoing.

2. To create, manufacture, produce, process, assemble, import, purchase and otherwise acquire, sell, transfer, export, and otherwise dispose of, trade, deal in and with, controls, valves, regulators, switches, motors, devices, components, appliances, fixtures, equipment, tools, instruments and mechanisms, and goods, wares, merchandise, and property of every class and description, and any and all materials or articles required for or useful in connection with all or any of the foregoing objects.

3. To develop, manufacture, assemble, fabricate, import, lease, purchase, or otherwise acquire, invest in, hold, use, license the use of, install, handle, maintain, service or repair, sell, pledge, mortgage, exchange, export, distribute, lease, assign, and otherwise dispose of, and generally to trade and deal in and with, as principal or agent, at wholesale, retail, on commission, or otherwise, electronic systems, equipment and components, and electrical, mechanical, and electro-mechanical apparatus and equipment of every kind and description, electronic, telecommunication, communication, transmitting, receiving, recording, reproducing, and similar

equipment of every description, microwave devices and equipment, radio, sonar, radar, television, and related devices and equipment, and similar goods, wares, merchandise, commodities, articles of commerce, and property of every kind and description, and any and all products, machinery, equipment and supplies used or useful in connection therewith.

4. To manufacture, buy, sell and deal in goods, wares, merchandise and personal property of every kind.

5. To the same extent as natural persons could do, to acquire, construct, maintain, develop, improve, rent, use, mortgage and dispose of real property and interests, estates and rights therein.

6. To act as agent or representative, in any capacity; and to perform services for others.

7. To acquire, develop, improve, use, grant licenses in respect of, mortgage, dispose of and deal in letters patent of the United States or any foreign country, patent rights, licenses and privileges, inventions, improvements and processes, copyrights, trademarks and trade names.

8. To acquire, own and dispose of rights, privileges, permits and franchises convenient for any of the purposes of its business.

9. To acquire, own, pledge, dispose of and deal in shares of capital stock, rights, bonds, debentures, notes, trust receipts, and other securities, obligations, choses in action and evidences of indebtedness or interest issued or created by any corporations, associations, firms, trusts or persons, public or private, or by the government of the United States of America, or by any foreign government or by any state, territory, province, municipality or other political subdivision or by any governmental agency, domestic or foreign, and as owner thereof to possess and exercise all the rights, powers and privileges of ownership, including the right to execute consents and vote thereon and to do any and all acts and things necessary or advisable for the preservation, protection, improvement and enhancement in value thereof.

10. To aid in any manner any corporation, association, firm or individual, any of whose securities, evidences of indebtedness, obligations or stock are held by the Corporation directly or indirectly, or in which, or in the welfare of which, the Corporation shall have any interest, and to guarantee securities, evidences of indebtedness and obligations of other persons, firms, associations and corporations.

11. To acquire, and pay for in cash, stock, bonds or other securities of the Corporation or otherwise, the good will, rights, assets and property and to undertake and assume the whole or any part of the obligations or liabilities of any person, firm, association or corporation.

12. To enter into, make and perform contracts of every kind.

13. To borrow moneys and, from time to time without limit as to amount, to issue, accept, endorse and execute promissory notes, drafts, bills of exchange, warrants, bonds, debentures and other negotiable or non-negotiable instruments and evidences of indebtedness, and to secure the payment of any thereof and of the interest thereon by mortgage

gage or pledge, conveyance or assignment in trust of the whole or any part of the property of the Corporation, whether at the time owned or thereafter acquired, and to sell, pledge or otherwise dispose of such bonds or other obligations of the Corporation for its corporate purposes.

14. To lend any of its funds, either with or without security.

15. To acquire, hold and dispose of shares of its own capital stock and rights thereto.

16. To carry on any other business in connection with any of the aforesaid purposes for which a corporation may be formed under the laws of the State of Florida.

17. To carry out all or any part of the foregoing objects as principal or agent, or in conjunction with any other person, firm, association or corporation, or as a partner or member of a partnership, syndicate or joint venture or otherwise, and in any part of the world to the same extent and as fully as natural persons might or could do.

18. To do all such things as are necessary and incidental to the attainment of the above objects.

19. To have and exercise all the powers conferred by the laws of the State of Florida upon corporations formed under the laws of such State.

20. The objects and purposes specified in the foregoing clauses shall, except where otherwise expressed, be in nowise limited or restricted by reference to, or inference from, the terms of any other clause in this certificate of incorporation, but the objects and purposes specified in each of the foregoing clauses of this article shall be regarded as independent objects and purposes.

The foregoing clauses shall be construed as objects, purposes and powers, and it is hereby expressly provided that the foregoing enumeration of specific powers shall not be held to limit or restrict in any manner the powers of the Corporation.

THIRD: The authorized capital stock of the Corporation shall consist of one million (1,000,000) shares of Serial Preference Stock, par value 10¢ per share (hereinafter called the Serial Preference Stock), and ten million (10,000,000) shares of Common Stock, par value 10¢ per share (hereinafter called the Common Stock).

The Board of Directors of the Corporation may issue shares of any class of the Corporation's stock or any Series thereof for such consideration, including cash, property, or services, as the Board may deem appropriate, subject to the requirement, in the case of shares having a par value, that the value of such consideration be no less than the par value of the shares issued.

The following is a statement of the distinguishing characteristics of each class of stock of the Corporation, including designations, preferences, limitations, voting powers and relative rights in respect of the shares of each class:

I SERIAL PREFERENCE STOCK

1. The Serial Preference Stock is senior to the Common Stock, and the Common Stock is subject to the rights and the preferences of the Serial Preference Stock as hereinafter set forth.

2. The Serial Preference Stock may be divided and issued from time to time in one or more Series, as herein provided, each Series to be appropriately designated, prior to issuance of any shares thereof, by some distinguishing letter, number or title. All shares of the same Series of Serial Preference Stock shall be alike in every particular and all shares of Serial Preference Stock shall be identical, except for variations in the rights and preferences of different Series which may be fixed and determined by the Board of Directors as hereinafter set forth.

3. The Board of Directors is hereby authorized to divide the Serial Preference Stock into Series and to establish Series of Serial Preference Stock and, in respect of the following particulars, to fix and determine the relative rights and preferences of the shares of any Series so established:

(a) The rate of dividends (including participating dividends, if any), the time of payment, whether such dividends shall be mandatory (i.e., required to be paid in any year in which the Corporation has funds legally available therefor) or non-mandatory (i.e., payable only if dividends are paid or declared on the Common Stock or any Series junior to such Series), whether such dividends shall be cumulative from year to year, and, if so, the dates from which the cumulation shall begin.

(b) Any right to vote with holders of shares of any other Series or class and any right to vote as a class, either generally or as a condition to specified corporate action.

(c) The price at and any terms and conditions on which shares may be redeemed by the holders thereof or called by the Corporation.

(d) The amount payable on shares in the event of involuntary liquidation, dissolution or winding up of the Corporation.

(e) The amount payable on shares in the event of voluntary liquidation, dissolution or winding up of the Corporation.

(f) Sinking fund provision, if any, for the redemption or purchase of shares.

(g) The terms and conditions on which such shares may be converted, if the shares of any Series are issued with the privilege of conversion.

(h) Whether the Series shall be junior to, or on a parity with, one or more other Series previously issued as to dividends and liquidation preferences and senior to, junior to, or on a parity with, any Series subsequently to be issued as to dividends and liquidation preferences.

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[illegible] for the Board of Directors to establish a Se[illegible] Serial Preference Stock, the Board of Directors sh[illegible] a resolution setting forth the designation and th[illegible] of shares of such Series and the relative rights and [illegible]eges thereof in respect of the foregoing particulars [illegible]or to issuance of any shares of a Series so established, [illegible] Corporation shall file a certificate reciting the [illegible] taken by the Board of Directors, as provided in the F[illegible]a General Corporation Law. The Board of Directors may r[illegible]gnate any shares of any Series theretofore established [illegible]t have not been issued, or that have been issued and re[illegible]d, as shares of some other Series, or change the designation of outstanding shares where desired to prevent confusion. Such redesignation or change of designation shall be set forth in a certificate reciting the action taken by the Board of Directors, as provided in the Florida General Corporation Law. Whenever the rights of the holders of one or more Series would be adversely affected by such designation or redesignation, such holders shall be entitled to vote thereon, to the extent required by the Florida General Corporation Law.

4. In no event, so long as any Series of Serial Preference Stock shall remain outstanding, shall any dividend whatsoever be declared or paid upon, or any distribution be made or ordered in respect of, the Common Stock or any other stock ranking junior as to dividends or liquidation preferences to such Series (excepting, however, distributions in shares of Common Stock or of any such junior stock), or any moneys be set aside for or applied to the purchase or redemption (through a sinking fund or otherwise) of shares of Common Stock or of any such junior stock (excepting, however, the purchase or redemption of such shares in connection with an acquisition of or merger with a corporation other than a subsidiary), unless:

(a) full cumulative dividends, if any, on all outstanding shares of such Series for all past dividend periods shall have been paid and the full cumulative dividend, if any, on all outstanding shares of such Series for the then current dividend period shall have been paid or declared and set apart for payment; and

(b) the Corporation shall have set aside all amounts, if any, theretofore required to be set aside as and for sinking funds, if any, for such Series for the then current year, and all defaults, if any, in complying with any such sinking fund requirements in respect of previous years shall have been made good.

Any dividend declared or paid on the different Series, if any, of the Serial Preference Stock ranking on a parity as to dividends in any amount less than the full dividend, if any, accumulated and unpaid, up to the end of the quarterly dividend period commencing with or next preceding the date for payment of such dividend, on all outstanding shares of all such different Series shall be in proportion to the aggregate amount of dividends accumulated and unpaid, up to the end of such quarterly dividend period, on the outstanding shares of all such different Series.

Subject to the foregoing provisions respecting any Series of Serial Preference Stock and not otherwise, dividends, payable in cash, stock or otherwise, as may be determined by the Board of Directors, may be declared and paid upon the Common Stock or any other stock ranking junior as to dividends or liquidation preferences to such Series from time to time, out of any funds legally available therefor.

5. The Corporation, at its election expressed by resolution of the Board of Directors, may at any time redeem the whole, or from time to time may redeem any part, of the Serial Preference Stock, or of any one or more Series thereof, at the redemption price per share fixed and determined with respect to each Series by the Board of Directors as hereinabove set forth, plus accumulated and unpaid dividends, if any, on the shares redeemed to the date fixed for redemption. If less than all outstanding shares of Serial Preference Stock or any Series thereof are to be redeemed, the redemption may be made by lot or on a pro-rata basis in the manner determined by the Board of Directors. If at any time cumulative dividends, if any, shall be unpaid on any Series of the Serial Preference Stock for any past quarterly dividend period, then, until such cumulative dividends have been paid or declared and set apart for payment, the Corporation shall not redeem (through a sinking fund or otherwise) less than all shares of such Series then outstanding, except that this provision shall not prevent the Corporation from (i) meeting the requirements of any sinking fund for such Series by the use of shares of such Series previously redeemed or otherwise acquired, (ii) purchasing shares of such Series in the open market or acquiring such shares upon exercise of warrants issued by the Corporation, to the extent permitted by such warrants, or (iii) completing the redemption of shares of such Series pursuant to notice of redemption given prior thereto. The Board of Directors shall have authority as hereinabove provided to prescribe the other terms and conditions subject to which any Series of Serial Preference Stock may be redeemed.

6. Upon any liquidation, dissolution, or winding-up of the Corporation, whether voluntary or involuntary, shares of each Series of Serial Preference Stock shall be entitled, before any distribution shall be made to the Common Stock or to any other stock ranking junior as to liquidation preferences to such Series, to be paid the amount fixed and determined by the Board of Directors for such Series as hereinabove provided, plus accumulated and unpaid dividends thereon, if any, to the date of distribution, but the Serial Preference Stock shall not be entitled to any further payment. If upon such liquidation, dissolution or winding-up of the Corporation, whether voluntary or involuntary, the net assets of the Corporation shall be insufficient to permit the payment to all outstanding shares of Serial Preference Stock or any Series thereof of the full preferential amounts to which

they are entitled, then the entire net assets of the Corporation shall be distributed to the outstanding shares of Serial Preference Stock in order of preference as between Series (and in the case of Series with equal standing, in proportion to the full preferential amount to which each share is entitled), and pro rata within each Series. Neither a consolidation nor a merger of the Corporation with or into any other corporation or corporations, nor the sale of all or substantially all of the assets of the Corporation, shall be deemed to be a liquidation, dissolution or winding-up within the meaning of this Section 6.

7. The Serial Preference Stock shall not be convertible, except to the extent that any one or more Series thereof may be issued with the privilege of conversion as may be determined by the Board of Directors prior to issuance of any shares of such Series as hereinabove set forth. If the shares of any Series are so issued with the privilege of conversion, then at the option of the respective holders thereof, the shares of such Series shall be convertible into a number of fully-paid and non-assessable shares of the Common Stock of the Corporation at the conversion rate, or upon payment to the Corporation of the conversion price, which is in effect for the shares of such Series at the time of such conversion. The initial conversion rate or conversion price (including in the latter case the number of shares of Common Stock issuable upon conversion) and the terms and conditions of conversion for each Series issued with the privilege of conversion shall be fixed and determined by the Board of Directors as hereinabove provided. Such conversion price or conversion rate with respect to any such Series may be subject from time to time to adjustment by virtue of issuance of securities or rights to purchase securities of the Corporation, or upon any capital reorganization or reclassification of the Common Stock of the Corporation, or the consolidation or merger of the Corporation, or the sale, conveyance, lease or other transfer by the Corporation of all or substantially all of its property, or in other circumstances, all to the extent and in the manner fixed and determined by the Board of Directors as hereinabove provided.

8. None of the holders of shares of any Series of Serial Preference Stock shall have any voting powers for any purpose, except as may be specifically required by law, or except as any such right to vote may be fixed and determined by the Board of Directors prior to issuance of any shares of such Series as hereinabove provided.

9. No Series of Serial Preference Stock shall be designated by the Board of Directors as senior to any previously issued Series in right of payment of dividends or liquidation preferences. Unless otherwise designated by the Board of Directors at the time of designation of a Series of Serial Preferred Stock, such Series shall be deemed junior as to dividends and liquidation preferences to each previously issued Series of Serial Preference Stock and senior as to dividends and liquidation preferences to each subsequently issued Series.

The designation of a Series cumulative as to dividends shall not be deemed to make such Series senior as to dividends to a previously issued Series designated cumulative (if earned) as to dividends or to make a Series designated cumulative (if earned) as to dividends junior to a Series previously designated cumulative as to dividends. The term "parity" as used herein shall mean equal in priority of payment or distribution, whether or not equal in amount.

II COMMON STOCK

1. The Common Stock is junior to the Serial Preference Stock and is subject to all of the rights, privileges, preferences and priorities of such stock as herein set forth.

2. Subject to all rights of the Serial Preference Stock, dividends may be paid on the Common Stock as and when declared by the Board of Directors out of any funds of the Corporation legally available for the payment thereof.

3. After payment shall have been made in full to the holders of the Serial Preference Stock in the event of any liquidation, dissolution or winding-up of the affairs of the Corporation, the remaining assets and funds of the Corporation shall be distributed to the holders of Common Stock according to their respective shares.

4. Each holder of Common Stock shall be entitled to notice of all meetings of stockholders and shall be entitled to one vote for each share of Common Stock held.

III PRE-EMPTIVE RIGHTS

No holder of any class of stock of the Corporation, whether now or hereafter authorized, shall have any preemptive right, as such holder, to purchase or subscribe for any stock of any class of the Corporation, whether now or hereafter authorized, or to purchase or subscribe for any security or obligation convertible into or exchangeable for or evidencing the right to purchase stock of any class, which the Corporation may at times issue, but all stock of any class and all securities or obligations of the Corporation whether or not convertible, exchangeable or evidencing the right to purchase as aforesaid, may be issued and disposed of by the Board of Directors on such terms and for such consideration, so far as may be permitted by law, and to such person or persons, as the Board of Directors in its absolute discretion may deem advisable.

FOURTH: The amount of capital with which the Corporation may begin business will not be less than Five Hundred Dollars ($500.00).

FIFTH: The Corporation is to have perpetual existence.

SIXTH: The affairs of the Corporation shall be conducted by a Board of not less than three Directors, who need not be stockholders.

SEVENTH: The name and post office addresses of the first Board of Directors, who, subject to the provisions of these Articles of Incorporation, the By-Laws and the Act of the Legislature approved June 1, 1925, and as amended by Florida Statutes 1941 and 1943, shall hold office for the first year of the Corporation's existence or until their successors are elected and shall have qualified, are the following:

NAME AND ADDRESS	SHARES OF COMMON NO PAR STOCK AND THE VALUE OF THE CONSIDERATION THEREFOR, WHICH HE AGREES TO TAKE.	
S. ROBERT ZIMMERMAN President 2305 Atlantic Boulevard Pompano Beach, Florida	Three (3) Shares	$300.00
MARIE LAWLESS Vice-President 2305 Atlantic Boulevard Pompano Beach, Florida	One (1) Share	100.00
DOROTHY DARLAK Secretary-Treasurer 2305 Atlantic Boulevard Pompano Beach, Florida	One (1) Share	100.00

EIGHTH: In furtherance and not in limitation of the powers conferred by the laws of the State of Florida, the Board of Directors is hereby especially authorized:

(a.) To make and alter the By-Laws at pleasure.

(b.) To fix the amount to be reserved as working capital and to authorize and cause to be executed, mortgage, liens upon the property and franchises of this Corporation.

NINTH: The original incorporators of the Corporation shall have the right upon its organization, to assign and deliver their subscriptions of stock as set forth in Article VII hereof to any other person, or to firms or corporations who may hereafter become subscribers to the capital stock of the Corporation, who, upon acceptance of such assignment, shall stand in lieu of the original incorporators, and assume and carry out all the rights, liabilities and duties entailed by said subscriptions, subject to the laws of the State of Florida, and the execution of the necessary instruments of assignment.

The number of Directors of the Corporation may be increased or decreased to not less than three (3) as may be provided by the By-Laws. The By-Laws may prescribe the number of Directors necessary to constitute a quorum of the Board of Directors, which number may be less than the majority of the whole Board of Directors. In case of vacancy in the Board of Directors through death, resignation, disqualification or other cause, such vacancy shall be filled for the unexpired term by the affirmative vote of a majority of the remaining Directors. In case of any increase in the number of Directors, the additional Directors shall be elected by the affirmative vote of a majority of the Directors then in office.

In furtherance and not in limitation of the powers conferred by statute the Board of Directors is expressly authorized:

→ (a.) Subject to the By-Laws, if any, adopted by the stockholders, to make, alter, amend or repeal the By-Laws of the Corporation;

(b.) If the By-Laws so provide, to designate by resolution two or more of their number to constitute an Executive Committee, which Committee, to the extent provided in the resolution or in the By-Laws of the Corporation, shall have and may exercise any or all of the powers of the Board of Directors in the management of the business, affairs and property of the Corporation during the intervals between the meetings of the Board of Directors, so far as may be permitted by law.

(c.) From time to time to determine whether and to what extent and at which times and place and under what conditions and regulations the accounts and books of the Corporation (other than the stock ledger) or any of them shall be open to inspection of stockholders; and no stockholder shall have any right of inspecting any account, book or document of the Corporation except as conferred by statute, unless authorized by a resolution of the stockholders or Directors.

The Corporation may at any meeting of its Board of Directors, sell, lease, or exchange all of its property and assets, including its good will, and its corporate franchise or any property or assets essential to its corporate business, upon such terms and conditions, either for cash for the securities of any other corporation or corporations, or for such other consideration as its Board of Directors may deem expedient and for the best interest of the corporation when and as authorized by the affirmative vote of the holders of record of at least two-thirds of the stock of each class issued and outstanding given at a stockholders' meeting duly called for that purpose, or when authorized by the written consent of the holders of record of at least two-thirds of the stock of each class issued and outstanding.

Both stockholders and directors shall have power, if the By-Laws so provide, to hold their meetings either within or without the State of Florida, to have one or more offices and to keep the books of the Corporation, subject to the provisions of the laws of the State of Florida, within or without the State of Florida, at such places as may from time to time be designated by the Board of Directors.

No contract or other transaction between the Corporation and any other corporation in the absence of fraud, shall be affected or invalidated by the fact that any one or more of the Directors of the Corporation is or are interested in, or is a Director or officer or are the Directors or officers of such other corporation, and any Director or Directors, individually or jointly may be a party or parties to, or may be interested in any such contract or transaction of the Corporation or in which the Corporation is interested, and no contract, act or transaction of the Corporation with any person or persons, firm or corporation in the absence of fraud, shall be affected or invalidated by the fact that any Director or Directors of the Corporation is a party or are parties to or interested in such contract, act or transaction, or in any way connected with such person or persons, firm or corporation, and each and every person who may become a Director of the Corporation is hereby relieved from any liability that might otherwise exist from this contracting with the Corporation for the benefit of himself or any firm, association or corporation in which he may be anywise interested. Any Director of the Corporation may vote upon any contract or other transaction between the Corporation and any subsidiary or controlled company without regard to the fact that he is also a Director of such subsidiary or controlled company.

TENTH: The business of said Corporation shall be conducted by a Board of Directors as above-mentioned as may be provided for by the By-Laws of said Corporation, and the following officers, to-wit, the President, the Vice-President and Secretary and Treasurer, providing that the same person may hold the offices of Secretary and Treasurer. The members of said Board of Directors shall be elected at an annual meeting of the stockholders of said Corporation, and said officers shall be elected by the members of said Board of Directors.

The names and post office addresses of the Board of Directors who are to conduct the business of this Corporation until those elected at the first annual election are qualified are as follows:

NAME	ADDRESS
S. ROBERT ZIMMERMAN President	2305 Atlantic Boulevard Pompano Beach, Florida
MARIE LAWLESS Vice-President	2305 Atlantic Boulevard Pompano Beach, Florida
DOROTHY DARLAK Secretary-Treasurer	2305 Atlantic Boulevard Pompano Beach, Florida

The highest amount of indebtedness or liability to which this Corporation can at any time subject itself is unlimited.

ELEVENTH: The names and addresses of the officers of the Corporation until the election at the first annual election of officers and their qualifications are as follows:

NAME	ADDRESS	OFFICE
S. ROBERT ZIMMERMAN	2305 Atlantic Boulevard Pompano Beach, Florida	President

NAME	ADDRESS	OFFICE
MARIE LAWLESS	2305 Atlantic Boulevard Pompano Beach, Florida	Vice-President
DOROTHY DARLAK	2305 Atlantic Boulevard Pompano Beach, Florida	Secretary- Treasurer

TWELFTH: Cumulative voting may be permitted by the terms of the By-Laws.

THIRTEENTH: The Resident Agent of said Corporation shall be S. ROBERT ZIMMERMAN, a resident of Pompano Beach, Florida, whose address is 2305 Atlantic Boulevard, Pompano Beach, Florida.

/s/ (SEAL)
S. ROBERT ZIM[illegible]AN

/s/ (SEAL)
MARIE LAWLESS

/s/ (SEAL)
DOROTHY DARLAK

As Amended to 8/18/77.

INTERNATIONAL CONTROLS CORP.

BY-LAWS

ARTICLE 1

MEETINGS OF STOCKHOLDERS

Section 1. Meetings of the stockholders shall be held in the City of New York, State of New York or at such other place either within or without the State of Florida as may be specified in the notice of any such meeting.

Section 2. Annual meetings of stockholders shall be held on the last Tuesday of April of each year, if not a legal holiday and if a legal holiday, then on the next succeeding business day, at 11:00 a.m., at which the stockholders shall elect by a plurality vote a board of directors and transact such other business as may properly be brought before the meeting.

Section 3. Special meetings of the stockholders may be called by the chairman of the board, the president, the secretary, the board of directors, or by the holders of not less than one-fifth of all the outstanding shares entitled to vote.

Section 4. Written or printed notice, signed by the secretary or any assistant secretary and stating the purpose of the meeting and the time and place it is to be held, shall be mailed to each stockholder having the right and entitled to vote at such meeting, at his address as it appears on the records of the corporation, not less than 10 nor more than 60 days before the date set for such meeting.

Section 5. A majority of the stock entitled to vote, present in person or represented by proxy, shall constitute a quorum at meetings of the stockholders except as otherwise provided by statute or by the certificate of incorporation. If a meeting cannot be organized because a quorum has not attended, those present may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present or represented. At such adjourned meeting at which a quorum is present or represented any business may be transacted that might have been transacted at the meeting as originally called.

Section 6. When a quorum is present at any meeting, the vote of the holders of a majority of the shares having voting power, present in person or represented by proxy, shall decide any proposal brought before such meeting, unless the proposal is one upon which, by express provision of the statutes or of the certificate of incorporation, a different vote is required, in which case such express provision shall govern and control the decision of such proposal.

Section 7. Unless otherwise provided in the certificate of incorporation, every stockholder shall be entitled at each meeting and upon each proposal presented at such meeting to one vote for each share of voting stock recorded in his name on the books of the corporation on the record date or, if no such record date was fixed, on the day of meeting. At any meeting of stockholders or any adjournment thereof, any stockholder of record having the right and entitled to vote thereat may be represented and vote by a proxy appointed by an instrument in writing. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy.

ARTICLE II

DIRECTORS

Section 1. The number of directors which shall constitute the whole board shall be five.* The directors shall be chosen at the annual meeting of the stockholders by a plurality of the votes cast at such election, except as provided in Section 2 of this Article; and each director elected shall hold office until his successor is elected and qualified. Directors need not be stockholders. At least one director shall be a citizen of the United States.

Section 2. Vacancies in the board of directors shall be filled until the next annual meeting of stockholders by a majority of the directors remaining in office, whether or not constituting a quorum. An increase in the number of directors shall create vacancies for the purpose of this Section. A director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

Section 3. The business of the corporation shall be managed and its corporate powers exercised by its board of directors, which may do all such lawful acts and things as are not by statute or by the certificate of incorporation or these by-laws directed or required to be exercised and done by the stockholders.

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*On August 18, 1977 a resolution was adopted by the Board amending the By Law, effective on the date of the next meeting of stockholders, so as to increase the number of directors to ten.

MEETINGS OF THE BOARD OF DIRECTORS

Section 4. Meetings of the board of directors, regular or special, may be held within or without the State of Florida.

Section 5. The first meeting of each newly-elected board of directors shall be held immediately following the annual meeting of stockholders, and no notice of such meeting shall be necessary to the newly-elected directors in order legally to constitute the meeting providing a quorum shall be present.

Section 6. Regular meetings of the board of directors may be held without notice at such time and at such place as shall from time to time be determined by the board.

Section 7. Special Meetings of the board of directors may be called by the chairman of the board or the president and shall be called by the president or secretary on the written request of two directors. Written notice of special meetings of the board of directors shall be given to each director at least two days before the date of the meeting, and such notice need not state the business to be transacted at, or the purpose of the meeting.

Section 8. A majority (or, in the event of an even number of directors, one-half of such number) of the directors shall constitute a quorum for the transaction of business and the act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors. If a quorum shall not be present at any meeting of the board of directors, the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

EXECUTIVE COMMITTEE

Section 9. The board of directors may, by resolution, designate two or more of their number to constitute an executive committee, which committee, to the extent provided in such resolution, shall have and may exercise the powers of the board of directors. The chairman of the executive committee shall be appointed by the board of directors.

Section 1[illegible]. The board of directors may designate one or more directors as alternate members of the executive committee, who may replace at any meeting of such committee any absent member or member disqualified from voting. In the absence or disqualification from voting of a member of the executive committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he or they constitute a quorum, may unanimously appoint another member of the board of directors to act at the meeting in the place of such absent or disqualified member.

Section 11. Meetings of the executive committee may be held within or without the State of Florida.

Section 12. Meetings of the executive committee may be called by the chairman of the executive committee or, if he is a member of the executive committee, by the chairman of the board. Written or oral notice of meetings of the executive committee shall be given to each member at least one day before the date of the meeting, and such notice need not state the business to be transacted at, or the purpose of the meeting.

Section 13. A majority (or, in the event of an even number of members, one-half of such number) of the members shall constitute a quorum for the transaction of business and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the executive committee. If a quorum shall not be present at any meeting of the executive committee, the members present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum shall be present.

Section 14. The executive committee shall keep regular minutes of its proceedings and report the same to the board when required.

INFORMAL ACTION

Section 15. Any action of the board of directors or of any committee thereof, which is required or permitted to be taken at a meeting, may be taken without a meeting if written consent to the action signed by all of the members of the board or of the committee, as the case may be, is filed in the minutes of the proceedings of the board or committee prior to the taking of such action.

PRESENCE AT MEETINGS

Section 16. Members of the board of directors and members of the executive committee shall be deemed present at a meeting of the board or executive committee if a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, is used.

COMPENSATION OF DIRECTORS

Section 17. The directors may be paid their expenses, if any, of attendance of each meeting of the board of directors and may be paid a fixed sum for attendance at each meeting of the board of directors or a stated salary as director. No such payment shall preclude any director from serving the corporation in any other capacity and receiving compensation therefor. Members of the executive committee may be allowed similar compensation for attending committee meetings.

ARTICLE III

NOTICES

Section 1. Notices to directors and stockholders shall be in writing and delivered personally or mailed to the directors or stockholders at their addresses appearing on the books of the corporation. Notice by mail shall be deemed to be given at the time when same shall be deposited in the United States mail. Notice to directors may also be given by telegram.

Section 2. Whenever any notice whatever is required to be given by law or the provisions of the certificate of incorporation or of these by-laws, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before, at or after the meeting, shall be deemed equivalent to the giving of such notice.

Section 3. Attendance of a director or of a member of the executive committee at a meeting shall constitute a waiver of notice of such meeting except where a director or member attends a meeting for the express purpose of objecting to the transaction of any busine because the meeting is not lawfully called or convened.

Section 4. Neither the business to be transacted at nor th purpose of any regular or special meeting of the board of directors or any meeting of the executive committee need be specified in the notice or waiver of notice of such meeting.

ARTICLE IV

OFFICERS

Section 1. The officers of the corporation shall consist o a chairman of the board, a president, one or more vice presidents, a secretary and a treasurer, each of whom shall be elected by the board of directors. Any person may hold two or more offices, except that the president may not also be the secretary or assistant secretary.

Section 2. The board of directors at its first meeting after each annual meeting of stockholders shall elect one of their members to act as chairman of the board, and one to act as president, and shall choose one or more vice presidents, a secretary and a treasurer, none of whom need be a member of the board.

Section 3. The board of directors may elect or appoint such other officers, assistant officers and agents as it shall deem necessary, who shall hold their offices for such terms and shall hav authority and perform such duties as shall be determined from time t time by the board.

Section 4. The salaries of all officers of the corporatio shall be fixed by the board of directors.

Section 5. The officers of the corporation shall hold office until their successors are chosen and qualify. Any officer o agent elected or appointed by the board of directors may be removed, with or without cause, by the board of directors whenever in its judgment the best interests of the corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Any vacancy occurring in any offic of the corporation by death, resignation, removal or otherwise shall be filled by the board of directors.

THE CHAIRMAN OF THE BOARD

Section 6. The chairman of the board of directors ("chairman of the board") shall preside at all meetings of the board of directors and of the stockholders. If at any time or for any reason the chairman of the board shall be unable to act, the president shall act in his place.

THE PRESIDENT

Section 7. The president shall be the chief executive officer of the corporation, and shall see that all orders and resolutions of the board of directors are carried into effect.

Section 8. The president shall execute bonds, mortgages and other contracts requiring a seal, under the seal of the corporation, except where required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be expressly delegated by the board of directors to some other officer or agent of the corporation.

THE VICE-PRESIDENT

Section 9. The vice-president, or vice-presidents in the order of their seniority, shall, in the absence or disability of the president, perform the duties and exercise the powers of the president and shall perform such other duties and have such other powers as the board of directors may from time to time prescribe.

THE SECRETARY

Section 10. The secretary shall attend all meetings of the board of directors and all meetings of the stockholders and record all the proceedings of such meetings in a book to be kept for that purpose and shall perform like duties for the executive committee when required. He shall give, or cause to be given, notice of all meetings of the stockholders and special meetings of the board of directors, and shall perform such other duties as may be prescribed by the board of directors or president, under whose supervision he shall be. He shall keep in safe custody the seal of the corporation and, when authorized by the board of directors, affix the same to any instrument requiring it and, when so affixed, it shall be attested by his signature or by the signature of the treasurer.

THE TREASURER

Section 11. The treasurer shall have the custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements in books belonging to the corporation and shall deposit all moneys and other valuable effects in the name and to the credit of the corporation in such depositories as may be designated by the board of directors.

Section 12. The treasurer shall disburse the funds of the corporation as may be ordered by the board of directors, taking proper vouchers for such disbursements, and shall render to the president and the board of directors, at its regular meetings, or when the board of directors so requires, an account of all his transactions as treasurer and of the financial condition of the corporation.

Section 13. If required by the board of directors, the treasurer shall give the corporation a bond in such sum and with such surety or sureties as shall be satisfactory to the board of directors for the faithful performance of the duties of his office and for the restoration to the corporation, in case of his death, resignation, retirement or removal from office, of all books, papers. vouchers, money and other property of whatever kind in his possession or under his control belonging to the corporation.

ARTICLE V

INDEMNIFICATION

Section 1. The corporation shall indemnify any person made a party or threatened to be made a party to any threatened, pending or completed action, suit or proceeding:

(a) Whether civil, criminal, administrative, or investigative, other than one by or in the right of the corporation to procure a judgment in its favor, brought to impose a liability or penalty on such person for an act alleged to have been committed by such person in his capacity of director, officer, employee or agent of the corporation, or of any other corporation, partnership, joint venture, trust or other enterprise which he served as such at the request of the corporation, against judgments, fines, amounts paid in settlement and reasonable expenses, including attorneys' fees, actually and necessarily incurred as a result of such action, suit or proceeding, or any appeal therein, if such person acted in good faith in the reasonable belief that such action was in the best interests of the corporation, and in criminal actions or proceedings, without reasonable ground for belief that such action was unlawful. The termination of any such action, suit or proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not in itself create a presumption that any such director or officer did not act in good faith in the reasonable belief that such action was in the best interests of the corporation or that he had reasonable grounds for belief that such action was unlawful.

(b) By or in the right of the corporation to procure a judgment in its favor by reason of his being or having been a director, officer, employee, or agent of the corporation, or of any other corporation, partnership, joint venture, trust or other enterprise which he served as such at the request of the corporation, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense or settlement of such action, or in connection with an appeal therein, if such person acted in good faith in the reasonable belief that such action was in the best interests of the corporation. Such person shall not be entitled to indemnification in relation to matters as to which such person has been adjudged to have been guilty of negligence or misconduct in the performance of his duty to the corporation unless and only to the extent that the court, [illegible]inistrative agency, or i[illegible]ative body before which such actio[illegible]it or proceeding is held shall determine upon application that despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification for such expenses which such tribunal shall deem proper.

(c) To the extent that a director, officer, employee or agent of a corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in paragraph (a) or (b), or in any defense of any claim, issue or matter therein, he shall be indemnified against the reasonable expenses, including attorney's fees, actually and necessarily incurred by him in connection therewith.

(d) In order for indemnification to be made under paragraph (a) or (b), a determination must first be made that indemnification of the director, officer, employee or agent is proper in the circumstances because such person has met the applicable standard of conduct set forth in paragraph (a) or (b), unless indemnification is ordered by the tribunal before which such action, suit or proceeding is held. Such determination shall be made either (1) by the board of directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (2) by the shareholders who were not parties to such action, suit or proceeding.

Section 2. The corporation shall pay expenses incurred in defending any action, suit or proceeding in advance of the final disposition of such action, suit or proceeding as authorized in the manner provided in paragraph (d) of Section 1 of this Article upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the corporation as authorized in Sections 1 through 4 of this Article.

Section 3. The corporation shall indemnify any person, if the requirements of Sections 1 and 2 of this Article are met, without affecting any other rights to which those indemnified may be entitled under any by-law, agreement, vote of shareholders or disinterested directors or otherwise, both as to action in such person's official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be director, officer, employee or agent of the corporation and shall inure to the benefit of the heirs, executors and administrators of such a person.

Section 4. The corporation may purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the corporation is obligated to indemnify him against such liability under the provisions of Section 1 of this Article.

ARTICLE VI

CERTIFICATES FOR SHARES

Section 1. The shares of the corporation shall be represented by certificates signed by the president or a vice-president and the treasurer or an assistant treasurer, or the secretary or an assistant secretary, and sealed with the seal of the corporation. Such seal may be a facsimile, engraved or printed. Where such certificate is signed by (a) a transfer agent or an assistant transfer agent, other than the corporation itself, or by (b) a transfer clerk acting on behalf of the corporation and a registrar, the signature of any of those officers may be facsimile. No certificate shall be issued for any share until such share is fully paid. Each certificate representing shares shall state that the corporation is organized under the laws of the State of Florida, the name of the person to whom issued, the number and class of shares which such certificate represents and the par value of each share represented by such certificate or a statement that the shares are without par value. Each certificate shall set forth on the face or back thereof, (a) a summary of the provisions of the certificate of incorporation showing the class or classes of stock authorized to be issued by the corporation and the distinguishing characteristics thereof, or (b) a reference stating that a copy of said provisions, certified by an officer of the corporation, will be furnished by the corporation or its transfer agent without cost, to and upon request of the certificate holder.

LOST CERTIFICATES

Section 2. The board of directors may direct a new certificate or certificates to be issued in place of any certificate or certificates theretofore issued by the corporation alleged to have been lost or destroyed, upon the making of an affidavit of that fact by the person claiming the certificates to be lost or destroyed. When authorizing such issuance of a new certificate or certificates, the board of directors may, in its discretion and as a condition precedent to the issuance thereof, require the owner of such lost or destroyed certificate or certificates, or his legal representative, to advertise the loss in such manner as it shall require and/or give the corporation a bond in such sum as it may direct as indemnity against any claim that may be made against the corporation with respect to the certificate alleged to have been lost or destroyed.

TRANSFERS OF STOCK

Section 3. Upon surrender to the corporation or the transfer agent of the corporation of a certificate for shares duly endorsed or accompanied by proper evidence of transfer, the corporation or transfer agent shall issue a new certificate to the person entitled thereto, cancel the old certificate, and record the transaction upon the corporation's books.

FIXING RECORD DATE

Section 4. For the purpose of determining stockholders entitled to notice of or to vote at any meeting of stockholders, or stockholders entitled to receive payment of any dividend, or in order to make a determination of stockholders for any other proper action, the board of directors may fix a date not more than sixty days prior to the date set for such meeting or for such payment of dividends or for such other proper action as the record date for any determination of stockholders. If no record date is fixed for the determination of stockholders entitled to notice of or to vote at a meeting of stockholders, the date of the meeting shall be the record date for such determination of stockholders. If no record date is fixed for the determination of stockholders for any other proper action, the date on which the resolution of the board of directors relating to such action is adopted, shall be the record date for such determination of stockholders.

REGISTERED STOCKHOLDERS

Section 5. The corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of the State of Florida.

ARTICLE VII

GENERAL PROVISIONS

DIVIDENDS

Section 1. The board of directors may declare and the corporation may pay dividends on its outstanding shares in cash, property, or its own shares pursuant to law and subject to the provisions of its certificate of incorporation.

Section 2. Before payment of any dividend, there may be set aside out of any funds of the corporation available for dividends such sum or sums as the board of directors from time to time, in its absolute discretion, thinks proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the corporation, or for such other purpose as the board shall think conducive to the interest of the corporation, and the board may modify or abolish any such reserve in the manner in which it was created.

CHECKS

Section 3. All checks or demands for money and notes of the corporation shall be signed by such officer or officers or such other person or persons as the board of directors may designate from time to time.

FISCAL YEAR

Section 4. The fiscal year of the corporation shall be fixed by resolution of the board of directors.

SEAL

Section 5. The corporate seal shall have inscribed thereon the name of the corporation, the year of its organization and the words "Seal" and "State of Florida". The seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

AMENDMENTS

Section 6. The board of directors shall have authority to adopt or amend by-laws not inconsistent with any by-laws that may hav been adopted by the stockholders.

TRANSCRIPT OF HEARING BEFORE HON. CHARLES E. STEWART DATED AUGUST 30, 1977

U.S. DISTRICT COURT
FILED
DEC 14 1977
S.D. OF N.Y.

hpsr

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, :

- v s - : 72 Civ. 5001

ROBERT L. VESCO, INTERNATIONAL :
CONTROLS CORPORATION, et al.,
:
Defendants.
:
--x

Before:

HON. CHARLES E. STEWART,

District Judge.

New York, New York
August 30, 1977 - 10:10 a.m.

Appearances:

GREGORY C. GLYNN, ESQ.,
Attorney for the Securities and
Exchange Commission.

SHELDON D. CAMHY, ESQ.,
Attorney for Defendant International
Controls Corporation.

EDWARD BRODSKY, ESQ.

MR. BRODSKY: Good morning, your Honor. This is my application, should I proceed, your Honor?

THE COURT: Yes.

MR. BRODSKY: Your Honor will recall that in January of 1976, on behalf of shareholders of International Controls, we made an application at that time for a shareholders' meeting. A shareholders' meeting has now been scheduled by the Court, we say in violation of both the letter and the spirit of your Honor's recent order with respect to a shareholders' meeting.

I appear today, your Honor, to ask you to rescind that order and to direct the board to schedule a meeting closer to December 15th, which is the target date in your Honor's order, and also to direct Mr. Butowsky, special counsel, to file his report in sufficient time so that the report can be digested by shareholders so they can vote intelligently with respect to a slate of directors.

Your Honor will recall that in April of 1977 after our application for intervention was made your Honor directed that Mr. Butowsky file his report not later than August 15, 1977. That date of course has come and gone and Mr. Butowsky has not filed that report.

In addition your Honor directed that the board of International Controls file its report no later than October 15, 1977, that a notice of meeting be mailed on or before November 15, 1977 and that election of directors should be held on or before December 15, 1977.

Your Honor, both Mr. Butowsky and the board of directors have ignored your order in this sense: There hasn't been any report by Mr. Butowsky. Your Honor may recall that when we originally made our application for a shareholders' meeting Mr. Butowsky opposed that application and he was joined in that opposition by the company. He said at that time that his investigation was substantially completed, he needed a few more months to complete whatever he was doing, it was unspecified, and he said he would be in a position to file his report after whenever that unspecified work was going to be completed.

He said that it was necessary for his report to be filed before a shareholders' meeting so that the report would be the basis for proxy material so that shareholders could intelligently assess his report in order to vote for a slate of directors.

Your Honor, it has been four years since Mr.

Butowsky was appointed and we still don't have that report. It seems to me we waited this long and if that report is imminent that report should be filed in accordance with what Mr. Butowsky himself said.

At the same time, your Honor, the SEC with respect to our application took a position which was similar to that of Mr. Butowsky. They said that special counsel should file his report, after that International Controls' board should file its report and after that there should be a shareholders' meeting.

Instead, your Honor, according to papers which I received last night from Mr. Cahmy, apparently Mr. Cahmy and Mr. Gould met with a representative of the SEC in July of this year without telling us about it and they decided among themselves, that they could as Mr. Cahmy says in his affidavit, waive Mr. Butowsky's report. That is inconsistent with what Mr. Butowsky said was important to shareholders, , what the SEC said was important to shareholders and inconsistent with this Court's order.

I would think, your Honor, if they wanted to waive that requirement that they would come to this Court and give reasons why they wanted to waive it and ask for an amendment of the Court's order. That they did not do.

Instead what they did was to meet sometime in August and decide on a slate of directors. That slate -- again, your Honor, this we know about as of last night because a copy of the proposed preliminary proxy material which has now been prepared by the board of ICC was served on us last night, and we find what the board did sometime in August was to decide to perpetuate themselves in control of this company because each of the board members has decided apparently that he wants to run for office. In addition to that, Milton Gould is one of the designees by the board for a direct ownership of the company so that five of the people appointed by your Honor have decided without coming to the Court and telling the Court why this decision was wise, why it is in the best interest of the shareholders, why it should be done this way, they decided among themselves they were going to perpetuate themselves in office or attempt to, using company funds, because in addition to designating themselves they also hired a proxy solicitor and I take it the proxy solicitor will be spending the company's money to have Court-appointed directors and a Court-appointed attorney elect themselves into office.

In addition to that, your Honor, they also selected six people, one of whom I think has some stock in the company, the others do not, six people who also are now or will be, unless this Court interferes, will be company-selected directors. This proposed board represents two percent of the total amount of shares of stock in this company.

Your Honor, I would have thought that consistent with the original Court order that your Honor signed which says in effect that no director shall be elected to office except the ones that your Honor appointed, except upon approval of the Court. Now, this company didn't come to the Court,as I would think, that Court-appointed trustee would do. Indeed, your Honor, I'm sure I don't know of every case, but I know of enough cases, and I would almost bet that in the anals of corporate history you wouldn't find a Court-appointed slate of directors without coming to the Court and saying to the Court after their job is through, your Honor, we have done our job, now we have a proposal to make to you for the continued stewardship of this company. That is not what they did.

Instead of coming to the Court with a proposal as to how the company should run in the future, instead of coming to the Court with a proposal as to how best to achieve the purposes of corporate democracy so the shareholders could decide who should run the company, they decided to use the company treasury to perpetuate themselves in office without your Honor's approval.

I venture to say unless we were here intervening and complaining, these people would be perpetuating themselves in office using company funds.

Your Honor, I think that is improper and that would be the subject of a motion which I propose to make. I am telling it to you now because it is relevant to when the shareholders' meeting will take place. The only application I have before you today is for an extension of the scheduled shareholders' meeting. The other material that I'm talking about I think is relevant to that purpose.

Your Honor, if this were just a normal company which was not being run by Court-appointed directors, we would know from year to year and have approximately a year's notice as to when the annual meeting would be.

One of the clients whom I represent who owns more than 100,000 shares of stock, has filed a 14B, and has announced his intention to seek one of the directorships of this company and to solicit proxies.

THE COURT: Say that again, Mr. Brodsky.

MR. BRODSKY: One client whom I represent, one of the intervenors here, Dr. Malhas, has announced his intention to seek proxies for purposes of electing himself as one of the directorships and for purposes of forming a slate of directors.

Your Honor, if this were a privately run company with a board of directors who had been elected by the shareholders they would have a year's notice approximately more or less as to when the annual meeting would be.

What we have here, your Honor, is a Court-appointed board acting like incumbents who are frightened that they are going to lose their jobs and instead of complying with the Court order, they meet secretly in the sense that we weren't informed about it, called a meeting for October 18th when we had every reason to believe, pursuant to the terms of your order, that a different schedule would be met, and I suggest to your Honor, try to catch us and everybody else who would want to consider this matter intelligently and have enough time to solicit proxies, if that is what they want to do, consider all of the problems in this company. The time this board is giving to all the shareholders to do that is insufficient.

Instead of approximately a year or instead of the time which your Honor had scheduled in the last order that your Honor signed with respect to this matter, instead of the time suggested by the SEC, Mr. Butowsky and the company itself, what they are doing now is in the summertime announcing, and we found out about it through the newspapers, not because we were told about it by co-counsel, announcing a meeting which would take place, unless your Honor interferes, approximately six weeks from now.

Your Honor, we had every right to believe that we were going to get the Butowsky report by August 15th. We had every right to understand that it was going to be very complicated, that the company, we and anybody else interested in this would need a month or perhpas two months as your order contemplated, to digest the report, understand it and know what to do about the future. That hasn't happened. Instead the company, by surprise, I suggest in an attempt to take us and anybody else who might be interested in fighting the company, to take us off guard, which they did, has announced a quick meeting. They have taken a tactic which is commonly used by incumbent directors with no stock who are afraid of their jobs.

Your Honor, we have waited for more than four years. Surely we can wait until the middle of December which was the date which was contemplated by your Honor. It did say the meeting should be held no later than December 15th. That might contemplate sometime before that but it certainly wasn't contemplated this meeting should be held without Mr. Butowsky's report. It wasn't contemplated the board of directors without coming to the Court with a suggestion as to how this company should best be run in the future, as to how corporate democracy should best be preserved would, I suggest to you in the middle of the night, in secret, decide to elect themselves and friends of theirs into office and use company funds to do that, your Honor, I suggest that is wrong.

My application today is to postpone the scheduled date of the meeting. I will be back shortly to the Court with a set of papers based upon the information given to us last night, based upon the things which I have been arguing to you this morning but my present application is to extend that time and to ask the Court to direct the company not to send out any proxy material until we are back with the Court which will be in a very short time with our further application.

THE COURT: Your further application, Mr. Brodsky, will be seeking what relief?

MR. BRODSKY: Further application will be seeking a direction to the board to come to the Court with a plan for the continued stewardesship of this company, to tell the board why they think they are the best people who can run the company, why they think the other people whom they have selected are the best people to run this company and to ask the Court to prohibit this board from using company funds to perpetuate themselves in office.

The shareholders should have the same right as this Court-elected board to pick the new board that is going to run this company in the future.

Your Honor knows that the incumbents in a Privately run company have an enormous advantage over people who are seeking to use them because they have the company treasury to work with. It was never contemplated, I don't believe, your Honor, when you appointed the four people, when you appointed co-counsel that four years later they would be back and without coming to your Honor and suggesting to the Court why this is the best way for this company and its shareholders to do this, why they have decided for themselves to use the company treasury to perpetuate them in office and indeed, your Honor, to nominate as one of their designees Mr. Stico who was required to resign as a board member as a condition of your Honor's order back in 1973. He is back, your Honor, with no explanation as to why he is a nominee.

That would be the thrust, your Honor, of the papers we are now preparing. Thank you.

THE COURT: Mr. Camhy.

MR. CAMHY: International Controls Corporation is a Florida corporation. It is constituted much like all American corporations under our statutory common law systems of corporations. It is governed by a board of directors which although appointed by this Court functions as a board of directors.

As such, this board set a date for an annual meeting. That is something that boards of directors do. It set the date no less than ten or more than sixty days, a record date, no less than ten nor more than 60 days for that meeting, record date meaning the date stockholders have to be record owner. As your Honor knows it often occurs people buy stocks with proxy but the record dates for housekeeping purposes, International Controls set a meeting date and a record date.

It is said for some reason the actions of the board are invalid and illegal. They comply with Florida law, they comply with bylaws. The question is then raised do they violate or it is asserted they violated a Court order. This Court entered an order on April 18th. That order didn't fix a date for a meeting by the corporation. It specifically refrained from doing so upon my request that an order was not necessary in view of the express representation by the board that they would try to hold the meeting at the earliest possible time but in any event prior to December 20, 1977. Indeed, the Court order so recites. It says that the board of directors of International Controls having represented to the Court that they intend to hold a meeting on or before Decmeber 20, 1977, and in connection with the application for that order we made it no secret that we didn't in principle oppose the idea of having a stockholders' meeting at the earliest possible time.

The reason we didn't want to hold one immediately as Mr. Brodsky requested because he wanted a meeting last May, he wanted a meeting a year ago, he has wanted a meeting instanter for one and a half years and the reasons we advanced for delaying it, if certain valid objectives of the Court-appointed board could be achieved near term then we thought it would be most constructive if we could get those things behind us before we had a meeting. Things we mentioned were certain IOS claims, extremely heavy claims being asserted by IOS entities, problems having to do with the Vesco stock and a merger eliminating some captive minorities in these subsidiaries. All of these were delicate matters and intertwined but nevertheless we thought we could get this done within six months to a year and it would be fine, we thought, if we could turn the company over to stockholders fully cleaned up.

As part of that was the report of special counsel. We considered if there was going to be such a report and if it was coming out near term that it would be a very important thing for the stockholders to have that report if they were going to vote.

Now, Mr. Brodsky and the SEC said yes, that is all well and good but how long can we delay a meeting. We said we are not asking for a delay indefinitely, some of this may be accomplished before that but if it is not there is no point in delaying it; if it can't be done we agree we might just as well have a meeting.

What happened during the summer was that it became fairly clear that these things would not happen. And, there being no provision in the Court order about the meeting and we understanding we were to have a meeting as soon as possible but in any event, before December 28th, we thought that since there was no reasonable prospect of these things occurring in time to have a meeting in 1977, there was no justification for delaying a meeting any more than it had to be.

There were recommendations of the SEC which suggested that the report precede the meeting. Realizing this we consulted with the SEC to find out if they would object since this was in their recommendations, if they would have any objection to this meeting and that is reflected in an affidavit which I submit to the Court. The SEC said not only would they not object, but if waiting for the report was going to delay the meeting beyond 1977 then they would object to waiting for the report because they thought a meeting must be held in 1977 and if we were going to wait for the report and then have the meeting in '78 we could forget it. This was made very clear to us by the SEC.

So, we were in compliance with the Court order which set no date for a meeting and placed no direction to have a meeting on a certain date and to the extent we deviated from some recommendations made by the SEC, we consulted with them in advance before we did what we did.

I think the Court can appreciate the problem here. The Butowsky report could be a very interesting thing. We ourselves contribute great importance to it. The problem is there is no Butowsky report and there won't be one for at least a month or so. If that report is to be going into the proxy report there would not be a meeting in '77. The Court provided for a board report. That report exists. It is attached to the materials which I submitted to the Court.

So we are in full compliance with the Court's order with respect to the board report and indeed I remember assertions being made by this Court that they didn't know why they would want to have the Butowsky report for matters being incorporated of the other report. The board filed its own report for subject matters and made its own comments on the legal matters affecting the company by referring to the company's 10K,, 10Q and adding recent material that had occurred.

The reasons why the company adopted the

alternate policy of having the meeting as soon as possible, first that there was no Butowsky report; second, and of some interest, was in the negotiations we were having with the IOS claimants they were showing an increasing interest in the Butowsky report.

Butowsky apparently plans to comment extensively on the facts underlying their claim in an investigative standpoint. It was at least discernible to me during the negotiations, IOS claimants were looking forward to the report in the hope it would advance their claims and contain adverse or admissions against interest of one kind or another or statements by Butowsky which could be used by them, et cetera, as leads to evidence or conceivably as evidence itself, although I doubt it would qualify as such.

We realize with the IOS matter still unresolved although the negotiations were proceeding constructively, we thought that the Butowsky report was not going to be such a beneficial influence to the company.

On the other hand, had the report been ready or had there been a prospect of the report being ready in time for a meeting in 1977, we perhaps would have stuck to the December 28th date. When it became clear, A, we were not too anxious to have a report for reasons relating to the IOS negotiation and, B, if the report came out on its target date, in November, it would come out in time to be out but not assimulated or prepared for proxy material for a December meeting which would mean the proxy material would be conceivably false or inadequate if it didn't contain disclosures and an analysis of it, the board's report might be considered inadequate. It was coming out too close to the meeting to be used at the meeting and it was coming out at a time when if you didn't refer to it you might then be presenting something inadequately.

So the logical step was to move back to a time when the report would not be out and when its contents would not be known and a meeting could be held therefore at the earliest possible time.

To the extent this deviated from a program which was envisioned in the SEC recommendations we consulted the SEC to make sure they would not object.

I submit, your Honor, we are in compliance with the company's certificate bylaws, in full compliance with the Court order which makes no direction whatsoever about a date on which the meeting must be held. It does not even direct a meeting be held. That was left to the board of directors. This board of directors selected this date, the date which is the earliest possible time, and that is what these plaintiffs have been asking for all along.

There has been a lot of discussion here about the fact that the board in accordance with nominating procedures used in corporations everywhere in this country has prepared proxy material which contains a nominating slate recommended by management and that four of the ten members on the nominating slate are directors who have served under appointment of this Court.

First I would like to remind the Court that in addition to being appointed by the Court these directors were also elected by the bylaws process of the corporation, that is, they replaced resigning directors in the usual way so they hold their office two ways: They hold their office through the corporate mechanism and through the Court designation of them as approved people.

We are being premature. I have not seen Mr. Brodsky's papers but the nominating power is exercised in every American corporation. The question of whether the use of company funds to pay for proxy material is a prudent expenditure of corporate money is hpsr

also a matter which occurs all the time in American corporations. The issue is, is this board within its powers and is it a prudent expenditure by the board of of company money to solicit its proxies in the usual way for a board of directors of ten, four of which happen to be continued Court-appointed directors. The reasons for having the four continue, your Honor, I think are self evident. First, special counsel is continuing and by the way, we might parenthetically remark on that.

At a time when we were waiting for special counsel's report we had hoped that that report would terminate the special counselship and terminate the Court admission of the company. The SEC made it clear to us that wasn't going to happen, that we would have special counsel after the shareholders meeting and not only would we have special counsel, but that the Court would retain jurisdiction especially to protect IOS related claimants because they relate to '34 violation Acts. We knew we would have the Court, and special counsel, notwithstanding a meeting. More than that, special counsel's report since he was going to remain in office would of necessity and by definition have to be less than a final and complete report.

So now we would be going to stockholders with a special counsel's report, not a complete report because he was staying in office, and we were not terminating the Court administration. That was one more reason why we thought that there was no sense in waiting for special counsel's report, especially if it was going to drive you into 1978.

Getting back to why the four are only the designated board of ten. I think that is pretty clear. There ought to be some continuity from the old to the new. The four are a minority of the ten. The six that have come from the outside, one is a stockholder, two are prominent representatives of American business, being directors and officers of companies that are among the finest in the country and then finally, there is my partner, Mr. Gould, and I wish to make it clear I do not regard Mr. Gould as being Court-appointed.

Mr. Gould was with this company before the Court's appointment of directors. He was counsel to this company in this case and was doing counsel work for this company before this time. He is not a Court-appointed director in any sense.

I don't know what is shocking about the board that contains six new people, four of whom are carryovers from the old and who have continuity and four of whom are fully familiar with the IOS related problems which apparently will continue to dominate the company for a while to come. I have dealt with whether the meeting date is the right date, whether the board had the power to set the meeting date, which I believe it did; whether the meeting date violated the Court order which I don't think there is any suggestion you can make that it is violated, the order, and I have told you how the Commission was consulted to see if they would object in view of their recommendation and, finally, with the question whether the nominating procedure which is used in all companies can be used in this company as well.

I have not dealt with any of the problems on the intervenors' side on this thing and I don't see any point in going on about them at length. These people have not yet appeared to have their deposition taken. Apparently a 14B was filed and that says nothing more that it is Mr. Malhas out doing what he has been out doing for awhile and the Court will no doubt be hearing from us about things relating to them.

I am curious though why this record date is of such concern. I can't understand why it is people who have wanted a meeting and have taken with less than seriousness the reasons we advanced for not having a meeting now when confronted, a meeting of which they were given almost immediate notice have decided the meeting is too soon.

The proxy statement will not even go out until September 8th and tnat is the official announcement of the meeting. To the extent we knew we were programming the meeting and we knew that on August 18th, on August 19th the press release went out and Mr. Underweiser knew about it right away. There has been no secret, no middle of the night as that thing has been said. Sixty days is an awful long advanced time to tell stockholders about a meeting and there will be the proxy material in the regular way. Mr. Underweiser has had at least a fifteen or twenty-day preview, at least, of the proxy material which ordinarily he wouldn't get. I don't know what all this talk is about midnight actions and secrecy.

THE COURT: Who is Mr. Underweiser?

MR. CAMHY: Mr. Brodsky's co-counsel who is perhaps closer to petitioner Malhas than Mr. Brodsky is. Petititioner Malhas and his counsel have received ample notice of this meeting and have ample opportunity to do anything they think is in their interest with respect to the meeting. This is not a midnight meeting, not an emergency meeting nor a short, short meeting at all. There will be the full proxy notice plus the additional notice that was picked up from the press release, the proxy materials being in their hands today instead of two weeks from now.

The other thing that I can't understand is what about this record date. Why are they so concerned about this record date? They have had their stock for years. The record date is being set in accordance with the date for the meeting which is October 18th. The record date is set for August 31st. People will be coming back from vacation after August 31st, the proxy material will go out on September 8th, when people are back from vacation. It was delayed an extra week or two to make sure people would be back from vacation so we could have the meeting and we would not be dealing with people who are away on vacation. I don't see how they can accuse us of trying to do things when people were on vacation when the proxy statement goes out on September 8th and the meeting will be held on October 18th. We set a record date that was consistent with an October 18th meeting date complying with the bylaws. That was Augsut 31st. I have yet to have it explained to me why this record date prejudices anybody. Yet, I think there is something that lurks behind this problem of the record date and I have a feeling we will be seeing it again before this controversy is over. I don't know when, as and if there is going to be a fight in this company, but we will have to have a look into who owns stock and when they owned it.

Your Honor, that concludes what I have. Summarizing, there has been no violation of the Court order and there being no violation of the Court order and the setting of the meeting date and record date complying in all respects with Florida laws and bylaws I submit there is no basis for enjoining or rescinding the action of the board in adopting the meeting date and the record date.

THE COURT: Mr. Brodsky didn't say this, Mr. Camhy, but I suppose it was implicit in what he was saying, that at least I ought to hold everything up pending the filing of his additional application because of the possibility if I grant any part of that, it might require undoing something that would otherwise have been done.

MR. CAMHY: At the present time the report of the board of directors has been sent to the Securities and Exchange Commission, Division of Corporate Finance and the Regional Office, Division of Corporate Regulation for review. The proxy material, as preliminary proxy material, has been sent to the same place. It is scheduled to be released on September 8th, If Mr. Brodsky has an application to make I submit he ought to be able to make it on papers. I'll be here. I don't see any basis has been shown --

THE COURT: We haven't seen what he is going to file of course. I suppose what you are saying is whenever he gets his papers in to me, we still can do whatever is indicated.

Am I correct, the next election of the directors if this one goes ahead this fall will be in April of next year?

MR. CAMHY: Yes.

THE COURT: So we are talking about a board that will be in office for six months or less?

MR. CAMHY: That is correct, and if the meeting is held in December or pushed over to January it seems to me it becomes almost wastefully close to appear.

THE COURT: Mr. Glynn, what do you think about this?

MR. GLYNN: May it please the Court. Your Honor, there are really two issues that are somewhat confused, the first of which is simply the date schedule, the record date of tomorrow, August 31st, and the election date of October 18th, 1977.

The second issue is the one that Mr. Brodsky really addressed himself to, that he says he will address himself to again in papers, namely, whether this is an appropriate board.

Let me speak to the first issue first, namely, the record date and the election date. Historically Mr. Gould did consult with Mr. Jacob of the New York regional office when it became apparent that Mr. Butowsky could not meet his designated report dates. Let me say in Mr. Butowsky's defense he did make formal application to the Court for an extension because I saw the Court signed order and before making the application he consulted me about an objection and realizing the difficulties in preparing a long report we acquiesced. That report is due, I think November 5th of this year.

With that state of affairs and when this came to pass Mr. Gould went to Mr. Jacob and said well, it doesn't look like we're going to get the Butowsky report in time for an election and Mr. Jacob concurred then and said let's have the election earlier.

This is the Commission position, namely, that the election should go forward at an early date and without the Butowsky report because it doesn't look like it's going to be available.

Rather than to delay the election we ought to have it. I suggest to the Court that the Court probab. ought to have the record date and election date as is for the time being.

Probably Mr. Gould should then have come to the Court and advised the Court of the proposed record date and proposed election date but he didn't do that. But, the Court can now cure that with an order non pro tunc.

THE COURT: Yes.

For the record, it seems to me, Mr. Camhy, that would have been appropriate. The timetable as Mr. Brodsky points out was at least in part fixed because of the timing for the Butowsky report. I don't think it's terribly serious but I think formal notice should have been given to the Court ahead of time with respect to the

October meeting date.

Go ahead, Mr. Glynn.

MR. GLYNN: I might say for the record, your Honor, that I learned of the election date and record date yesterday about 9:00 o'clock when Mr. Jacob called me and he had received the order to show cause paper. He had learned about it because he received a call from Mr. Underweiser who had read it in the Wall Street Journal. I was out of town then.

Let me move to the appropriateness or inappropriateness of the proposed board. The proxy material had been submitted to the Division of Corporate Finance for comments. The comments are due to be received at the end of this week or early next week. I don't want anything I say here today to be taken by the Court as the Commission sanction or non-sanction for that matter of the proposed board.

But, there is some merit to Mr. Brodsky's position, namely, that there is a difficulty with directors who have a fiduciary capacity because they are Court appointed, then turning around and electing themselves as elected directors and using corporate funds.

The only case law that comes to mind, to my recollection, is that a bankruptcy trustee cannot succeed himself as a director or officer in an elected capacity in a reorganized corporation. But I think it is premature to address this issue. The Commission may have comments with regard to that which it will make at a later time.

I would submit to the Court probably that the wisest thing to do is simply to leave the record date and the election date as is for the time being and allow Mr. Brodsky to address the subsequent issue in papers. The election date can always be postponed in the future by the Court order.

Frankly, I am a little surprised at the motion. My memory is very vivid of Mr. Brodsky banging on the Court doors earlier this year trying to get an early election and we accommodated him with that, having hearings and the Court signing orders making recommendation. Now he has turned around and wants to postpone it. I frankly don't understand the problem with the dates.

I understand the problem with the board's election but I would suggest to the Court probably the record date and election date ought to be left as is for the time being and that's really the only matter on the calendar this morning with the understanding that the election date can be postponed by Court order if it should be shown necessary.

Thank you, your Honor.

THE COURT: Mr. Brodsky, anything else?

MR. BRODSKY: Yes, your Honor, just briefly.

First let me address myself to the last thing that was said, why did we come in here and ask for an early meeting and now are asking for a postponement.

Your Honor, the reason is, I suggest to you that we have been misled, misled by dates that were fixed by the Court, working on a schedule which we thought was fixed by the Court, at least more or less, and now finding a meeting without notice to us, finding the Court's order changed without application to the Court, without notice to us. We were told nothing about this.

The problem is, your Honor, with respect for example, with respect to Mr. Malhas. In a normal situation he would know from year to year when the next annual meeting is going to be.

Should he be in a worse position because we have got Court appointed trustees here? I suggest, your Honor, that the approximate six weeks from now is not sufficient time for Mr. Malhas to do what he has to do to solicit proxies to tell his story to the company.

More than that, your Honor, the SEC is announcing now for the first time as far as I'm concerned that they have got some problems with Court appointed directors who want to use --

THE COURT: He didn't say problems. I think he just said it is something they're considering.

MR. BRODSKY: But they may be back and if it's going to be a problem the meeting may be postponed.

Are we now going to be spending our own private money -- we don't have company funds to use, Judge --

THE COURT: I really don't know why, you haven't told me why you want the meeting held sometime after October, whatever the date is, October 18th.

MR. BRODSKY: The reason is, we were looking to an approximate December 15th meeting date, planning what we had to plan. That was adequate time. When they push this back to October 18th we are not ready for it.

THE COURT: My recollection is often faulty, but I seem to recall that when we last were together in connection with the order of April 19th, that the Commission made it very clear that they wanted the stockholders meeting to go ahead as promptly as possible and reluctantly they agreed to put it off until after the Butowsky report because that might have been useful. Nobody was quite clear why it might be useful at that time but just as a matter of convenience we therefore set up the schedule.

MR. BRODSKY: Judge, that's the schedule I had been operating on.

THE COURT: My order doesn't say on these dates, a firm schedule and as you indicated it is on or before. The effort has been at least both by yourself, quite properly, and by the Commission, to get the duly elected board as promptly as possible. If we put this off now, it seems to me we are putting it off in effect until April.

MR. BRODSKY: Judge, it seems to me, since we have been waiting for four years, why couldn't the meeting be held thirty days after than they are suggesting.

THE COURT: If you put it off for thirty days or so, we may have the Butowsky report then which has to be dealt with, and that may raise problems which none of us can see at this point.

What I think I would like to do and will do, Mr. Brodsky, is leave it the way it is for the time being. In other words, I am going to deny your application to change the date or postpone it.

But, we will all bear in mind that everything done now is subject to my approval from here on, that we can change the dates later on if it develops that they should be.

Your papers may convince me, may convince the Commission, may even convince Mr. Comhy that we ought to put the time off. Let's for the time being leave it the way it is.

I would like, and I think basically all of us are shooting for this, to get a board elected as promptly as possible. I don't have before me at the moment sufficient reason to postpone things. I may be shown sufficient reasons shortly. I am going to deny your application.

I would like to raise a couple of other related questions. You are still not officially an intervenor, are you?

MR. BRODSKY: Not yet, your Honor. Not until your Honor says so.

THE COURT: I recall something about depositions which apparently haven't been taken and my order says if anybody is going to object to your becoming part of this matter should do so by September 30th. It seems to me Mr. Brodsky's position ought to be made more clear.

What about that, Mr. Glynn? Can we make him officially an intervenor in the near future? Not an intervenor but a party.

MR. GLYNN: Your Honor, we opposed his intervention in the litigation although we didn't oppose his taking a position in the elction contest or fight that might occur. I don't think there really -- well, I wouldn't oppose limited intervention for the purpose of filing papers in the proxy contest.

THE COURT: That is what we have been permitting as we have been going along.

MR. GLYNN: Your Honor has just refreshed my recollection on something. It seems to me, your Honor's order on page 3 of the April 19th order says the depositions have to be concluded before August 31st, 1977, which is tomorrow. That would have to be amended.

THE COURT: Paragraph 6, on the next page, says if anybody is going to oppose the petition to intervene for reasons mentioned in Paragraph 4 of your recommendations, back in March, they have got to advise me before September 30th.

MR. CAMHY: Your Honor, I noticed depositions of all of the proposed intervenors for the month of August. Those depositions were adjourned for the convenience, I believe, of Mr. Brodsky and perhaps Mr. Butowsky. In any case, they were arranged between them.

THE COURT: I am just raising the question so we all have it in mind. We have been able to proceed so far without anybody, for example, asserting that Mr. Brodsky shouldn't be here.

MR. CAMHY: Your Honor, I may be wrong, but if the contention, the kind of contentions Mr. Brodsky has made, I think his position, the proof of his stock ownership gives him the right to make those contentions.

THE COURT: Yes.

MR. CAMHY: I think there is a serious question whether Mr. Brodsky is going to be a participant in management in the light of the history of the company and the problems which caused it to be in its present condition. That may be a problem. But, the right of a stockholder to speak as to the proper expenditure of company money which is really what this proxy statement ultimately gets to as a theoretical question, we all know it relates to corporate control but theoretically it has to do with company money, printing proxy material, and I think as a stockholder he has the right to raise that.

THE COURT: Yes. I have raised it just

because I was curious as to what was happening and also because frankly I'm concerned that we may somewhere do something technically which we shouldn't be doing because Mr. Brodsky isn't officially in the lawsuit.

I suppose, Mr. Brodsky, I will look to you to make sure that we keep your status in mind. So far we have been able to function and I will expect you to let me know if you think something should be done which isn't being done about your status in the lawsuit.

MR. BRODSKY: Thank you, your Honor.

Your Honor, maybe we can do this a little more quickly than the present procedure contemplates. Your Order, as you recall, states that if we can satisfy Mr. Butowsky and basically the SEC that we have no connection to Mr. Vesco. That's the issue your Honor was interested in.

I told both Mr. Butowsky and I believe Mr. Glynn, we are prepared to give affidavits, whatever kind of statements they want to that effect. It is terribly expensive for us to be appearing at depositions for that purpose.

THE COURT: I think we discussed that last Spring. I'm not sure I did this but I think there was a suggestion that perhaps you ought to start with affidavits and if they aren't good enough, sufficient, then perhaps depositions would be next.

MR. BRODSKY: Your Honor, we are prepared to give them an affidavit in as unqualified a form as they want to the effect we have no connection to Vesco or any Vesco-related company.

THE COURT: Yes, but I believe -- again, I'm relying on my poor recollection -- it seemed to me at that time as it does now, that an affidavit might not be sufficient. We all know affidavits may leave things unsaid, it's unintentionally or for other reasons. I don't know that we need to pursue this any further. I just wanted to raise the point so we all keep it in mind.

One other question which I would be interested in comments on. Assuming there is no change in the timetable, should the proxy material refer to -- maybe it does, the draft, I haven't read it -- refer to the forthcoming Butowsky report?

MR. CAMHY: The report of the board of directors which will accompany the proxy material does refer to the forthcoming Butowsky report.

THE COURT: Of course it can't say very much about it.

MR. CAMHY: It says it hoped it will receive it, it was decided to proceed with the meeting.

MR. GLYNN: I would like to orally move the Court to modify the time schedule on page 2 of the order on April 19th. It is Paragraph 4, at the top of page 3, so that we reset a schedule, namely the taking of depositions or examinations be concluded by September 30th.

MR. CAMHY: That has been done. Mr. Butowsky and Mr. Brodsky apparently prepared a stipulation, submitted it and the Court signed it, I think.

MR. BRODSKY: I don't know if it was done that formally.

MR. GLYNN: I have some conflicts with schedules. Also to amend Paragraph 6 so anyone can object to the intervention -- let's move it fifteen days to October 15th, '77.

THE COURT: What is the other change you want to make?

MR. GLYNN: I want to conclude the depositions by the end of September, September 30th.

THE COURT: Has that already been done by formal stipulation?

MR. CAMHY: I believe so, your Honor. I may be wrong. Haven't a whole bunch of --

MR. BRODSKY: I was away on vacation.

THE COURT: If it hasn't been done, let's do it again. We will direct that Paragraph 4 of the order of April 19th be changed so that the examinations will be concluded on or before September 30th.

MR. CAMHY: Your Honor, the objections should also be on the same date. This puts us at an inconvenience. I would like the objections out of the way. If the meeting is going ahead, I don't want us to be in court talking about Mr. Brodsky's standing.

MR. GLYNN: If Mr. Camhy wants to keep it the 30th, that's fine.

THE COURT: Then the only thing we are changing is the date in Paragraph 4.

MR. BRODSKY: Your Honor, just one short thing. If we are going to adhere to this date and so far we are, we would like to get from the company on behalf of Mr. Malhas, a shareholders list, a copy of the bylaws and charter of incorporation, an opportunity to inspect the minutes of the corporation for as long as these trustees have been in office. I wonder if there is an objection to that.

MR. CAMHY: I don't believe there will be. I will check with my clients. If there is any objection you will know within forty-eight hours.

MR. GLYNN: None from the Commission.

THE COURT: I don't suppose there will be any objections.

MR. GLYNN: No objection from the Commission on that request, your Honor.

THE COURT: Gentlemen, we are on the record Mr. Brodsky. Is that sufficient for your purposes, my denial of your application?

MR. BRODSKY: It's the best I can do.

THE COURT: Assuming I am going to deny it do you want a separate written order?

MR. BRODSKY: If I think I need it I will submit an order, your Honor.

THE COURT: I have received a proposed order from Mr. Maloney who wants me to direct that as a receiver from the Vesco stocks that he shall not vote it for the election of directors at the annual meeting but it will be counted for proxy purposes and I propose to enter that order.

MR. BRODSKY: Your Honor, I object to that. I don't understand why, if he is not going to vote, it should be counted. We are creating a situation where 25 percent of the company is coming to the meeting in terms of votes and he is announcing he is not going to vote. I don't see the purpose of counting that for a quorum.

MR. GLYNN: I think I agree with that comment. I don't understand what he wants to do and it alerts me.

MR. CAMHY: Your Honor, unless the Vesco stock is represented there is a serious question as to whether a quorum would be present for the purpose of holding an election and the object was to have him there so we would have a quorum but not let him take any side in the election.

An alternate consideration was given that he vote his share in exact accordance in the way the rest of the shares were voted but when we gave consideration to that we realized it might present mechanical problems about counting the other shares and having his shares counted and also we thought that the best thing, and I questioned corporate counsel, if he does not vote is he all right there for quorum purposes and is the smaller vote a good vote and the answer is yes. Our feeling was yes, he ought to be there so we have a quorum but he should not take a position in the election because that stock is for the time being stock which is expected will be used to satisfy claims for the company and to that extent the company is a fiduciary and the board and so is Mr. Maloney in holding that stock and should not take any position in a corporate election. This is the way we saw it.

MR. GLYNN: Mr. Camhy's explanation has convinced me to the extent I agree unless something changes my mind after conferring with some people at the Commission. I would go along with that.

THE COURT: I think it is important of course to have a quorum.

MR. BRODSKY: I wonder, Judge, if you would permit me to address myself to that issue in the set of papers.

THE COURT: I don't think I need to act on this right away. What about this aspect of this question, Mr. Camhy: Mr. Foglia is attacking the initial complaint, the default in the initial complaint. If he is successful on that, Mr. Maloney is out of a job.

MR. CAMHY: At some point the decrees and judgments of this Court have to be accepted as effective. There is no end to the litigation Mr. Foglia can bring. We hold final judgment and are executing under final judgment.

THE COURT: You are saying as of this

point in any event Mr. Maloney has full authority.

MR. CAMHY: That's right. Unless Mr. Maloney wants to proceed for an injunction, based on whatever equities or law he can show, without that you have to take the situation as it exists. A judgment confers property rights and this is, I think something else that is settled until some Court overturns it and nobody will.

THE COURT: So that we have some sort of a control on this, should we fix a date when I am to hear from you Mr. Glynn and from you, Mr. Brodsky, if you have any objection to this order.

MR. BRODSKY: By Tuesday, your Honor.

THE COURT: I don't think it makes any difference when I do this, so long as it is before the meeting.

MR. CAMHY: It has to be before the date the proxy material goes out. We have represented in the proxy material what disposition would be made of the Vesco stock. That's a large block of stock and the stock --

THE COURT: I better hear from you then by September 6th, which is Tuesday.

MR. BRODSKY: Does that mean we should be here to argue that?

THE COURT: Why don't you send me something. Make sure it is delivered on that day.

MR. CAMHY: Your Honor, I would like some advance notice whatever is going to be submitted. That is, before Tuesday.

THE COURT: You are going to be here on Tuesday, aren't you, anyway?

MR. GLYNN: Wednesday. Maybe it's good to do it on that day.

THE COURT: If I can get your papers on the 6th that will be fine and then we'll deal with it on the 7th.

MR. CAMHY: Your Honor, I am told that we simply cannot do printing and mailing -- well, could I have papers on Friday? I will spend the Labor Day weekend.

THE COURT: Off the record.

(Discussion held off the record)

THE COURT: All right, gentlemen, thank you.

MR. BRODSKY: Your Honor, could I make my other substantive motion returnable next Wednesday, at the same time?

THE COURT: Yes.

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NOTICE OF MOTION DATED SEPTEMBER 2, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- -

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff, : 72 Civ. 5001 (CES)

- against - : NOTICE OF MOTION

ROBERT L. VESCO, et al., :

Defendants. :

- x

SIRS:

PLEASE TAKE NOTICE that upon the annexed affidavit of Edward Brodsky, sworn to on the 2nd day of September, 1977, and on all of the prior pleadings and proceedings heretofore had herein, the undersigned attorneys for the petitioners will bring this motion on for hearing before the Honorable Charles E. Stewart, one of the judges of this Court, in Room 2602 of the United States Courthouse, Foley Square, New York, New York, on the 7th day of September, 1977, at 10:00 o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, for an Order (i) prohibiting court-appointed directors from succeeding themselves in office at the next election of shareholders of International Controls Corp. ("ICC"), (ii) prohibiting court-appointed directors of ICC from using company funds to solicit proxies on behalf of themselves and those affiliated with them for the next election of directors of ICC, (iii) directing ICC to formulate and present to the Court a plan for the orderly transition of the stewardship of ICC by this court to an independent board of directors elected by ICC stockholders, which plan shall be designed to give all shareholders of ICC an opportunity to suggest nominees to the board and vote intelligently with respect to such board, (iv) rescinding the action of the court-appointed board of directors setting a record date of August 31, 1977 and a meeting date of October 18, 1977 for a meeting of the ICC stockholders, (v) directing that a meeting of ICC shareholders be held for purposes of electing directors after the ICC plan for orderly transition is approved by the court and forwarded to shareholders, (vi) prohibiting Elmer A. Sticco from running as a nominee for election to the board of directors unless, after good cause shown, this Court permits Mr. Sticco to be a nominee, (vii) directing that the shares of stock of ICC formerly owned by Robert L. Vesco, now held by Andrew Mahoney as Receiver, not be counted for quorum or any other purpose at the next meeting of shareholders of ICC, and (viii) for such other and further relief as to this Court may seem just and proper.

Dated: New York, New York
September 2, 1977

Yours, etc.

SPENGLER CARLSON GUBAR CHURCHILL &
BRODSKY

By____________________________
A Member of the Firm
Trial Counsel for Petitioners
280 Park Avenue
New York, New York 10017
(212) 682-4444

TO:

SHEA GOULD CLIMENKO & CASEY
Attorneys for International
Controls Corp.
330 Madison Avenue
New York, New York 10017

AFFIDAVIT OF EDWARD BRODSKY SWORN TO ON SEPTEMBER 2, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

SECURITIES AND EXCHANGE COMMISSION,	:	
Plaintiff,	:	72 Civ. 5001 (CES)
- against -	:	AFFIDAVIT
ROBERT L. VESCO, INTERNATIONAL CONTROLS CORP., et al.,	:	
	:	
Defendants.	:	

- x

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

EDWARD BRODSKY, being duly sworn, deposes and says:

I am a member of the firm of Spengler Carlson Gubar Churchill & Brodsky attorneys for petitioners, Wade S. Malhas, Irving Horowitz, Martin Jacoby, Charles Birbara, Cornelius A. Hubner, Murray Dryer, Phil Birbara, N.E. Burgess and William Zeidman (collectively "Petitioners") in this action.

This affidavit is submitted in support of a motion of Petitioners for an order (i) prohibiting court-appointed directors from succeeding themselves in office at the next election of shareholders of International Controls Corp. ("ICC"), (ii) prohibiting court-appointed directors of ICC from using company funds to solicit proxies on behalf of themselves and those affiliated with them for the next election of directors of ICC, (iii) directing ICC to formulate and present to the Court a plan for the orderly transition of the stewardship of ICC by this court to an independent board of directors elected by ICC stockholders, which plan shall be designed to give all shareholders of ICC an opportunity to suggest nominees to the board and vote intelligently with respect to such board, (iv) rescinding the action of the court-appointed board of directors setting a record date of August 31, 1977 and a meeting date of October 18, 1977 for a meeting of the ICC stockholders, (v) directing that a meeting of ICC shareholders be held for purposes of electing directors after the ICC plan for orderly transition is approved by the court and forwarded to shareholders, (vi) prohibiting Elmer A. Sticco from running as a nominee for election to the board of directors unless, after good cause shown, this Court permits Mr. Sticco to be a nominee, (vii) directing that the shares of stock of ICC formerly owned by Robert L. Vesco, now held by Andrew Maloney as Receiver, not be counted for quorum or any other purpose at the next meeting of shareholders of ICC, and (viii) for such other and further relief as to this Court may seem just and proper.

On March 16, 1973, more than four years ago, after the filing of a Consent Settlement by ICC, this Court entered a Final Judgment of Permanent Injunction and Appointment of Special Counsel and Directors of International Controls Corp. (hereinafter referred to as the "Final Judgment"). A copy of the Final Judgment is annexed hereto as Exhibit "A". The Final Judgment provides for the drastic remedy of suspending the powers of the stockholders of ICC to select the directors of the company and orders that the board of directors be appointed by the court. The time has now come to return the management of the corporation to an independent board elected by the stockholders.

In January, 1966, Petitioners, who own more than 179,000 shares of ICC stock, moved this Court for an order directing a shareholders meeting. By order dated April 19, 1977 this Court directed, among other things, that if such meeting were not held on or before December 15, 1977 then any party could, upon three days notice, request further relief with respect to such meeting. The court also directed that certain other steps be taken before such meeting. A copy of the order of the Court is annexed as Exhibit B.

On August 22, 1977, The Wall Street Journal reported that the ICC Board announced that a meeting of ICC shareholders would be held on October 18, 1977 and that shareholders of record on August 31, 1977 would be eligible to vote at this meeting. No prior notice of said meeting was given to Petitioners who were relying upon the schedule set forth in the Court's April 19, 1977 Order. (Exhibit B) By Order to Show Cause, returnable August 30, 1977, petitioners asked for a postponement of the meeting because they were taken by surprise by the action of the board with no notice to them. That application was denied by this Court on the same day with leave to renew.

The court-appointed directors of ICC, in its opposing papers to Petitioners' application for an adjournment of the meeting (served late in the day on August 29, 1977) revealed for the first time, (by including in its papers a copy of a report of the board and preliminary proxy material, annexed hereto as Exhibits C and D), that, without going to this Court for approval, it was going to nominate as directors the following people:

(i) themselves, (Charles E. Desmond, George D. Gould, John Mosler and Allen M. Shinn)*

(ii) Milton S. Gould, a senior partner in the firm, which has represented ICC during the stewardship of the court-appointed directors,

(iii) Elmer A. Sticco, who was compelled to resign as a director in 1973, when the court-appointed directors were designated, and

(iv) Bernard L. Schwartz who, according to the preliminary proxy material is Chairman of the Board and Chief Executive Officer of Corporation. (Mr. Shinn, a court-a director, has been a director of Lora poration since 1973 according to the ICC Form 10-K for the year ending December 31, 1976).

(v) J. Hugh Liedtke, who according to the preliminary proxy material is Chairman of the Board and Chief Executive Officer of Pennzoil Co. (Mr. Shinn has been a director of Pennzoil since 1970 according to the ICC Form 10-K for the year ending Decmeber 31, 1976).

(vi) William H. Burgess and Harvey L. Karp.

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* Originally there were five court-appointed directors. One of them, Joseph W. Weiner, died in January 1976.

The proxy material also reveals that the court-appointed directors have retained a firm of proxy solicitors, D. F. King & Co., and will spend company funds to have ~~the~~ ~~elect~~ themselves and the other persons listed above elected as directors by the shareholders.

Petitioner's respectfully suggest that the court-appointed directors have not set forth a mechanism for the transition of directors which will adequately protect the interests of all ICC stockholders. The court-appointed directors have instead hastily set in motion a plan of action to perpetuate themselves in office, using corporate funds for this purpose. Rather than formulating a plan for the transition of ICC from supervision by the Court to management elected by stockholders, the interim directors have devised a scheme to use their court appointments and the company treasury to transform what was intended as an interim stewardship of the company into ongoing management control by court-appointed fiduciaries. Such a plan contravenes the purpose of the remedy of interim directors to provide a flexible method of court supervision for a limited period of time and to then turn over the reigns of the Company to a different independent Board elected by the shareholders.

One of the problems of court-appointed directors succeeding themselves is pointed up by the directors' preliminary proxy material which states (p. 3) that the court-appointed directors own no stock of ICC because "they deem it inappropriate as court-appointed directors to purchase such stock". It is equally "inappropriate" for them to use their positions as court-appointed directors, and company funds, to succeed themselves in office.

This Court approved the remedy of appointment of interim directors for ICC and has exercised continuing jurisdiction in order to enforce the provisions of the final judgment. Petitioners respectfully suggest that the Court should likewise exercise supervision over the return to management elected by the stockholders in order to ensure that the objective of the Final Judgment are indeed achieved. Petitioners urge this Court not to allow an experiment in court-supervised management to be transformed into a personal sinecure inuring to the benefit of persons whose appointment as ICC directors was the responsibility of this Court.

As part of the Final Judgment, this Court appointed "a new interim independent board of directors for ICC, none of whom shall previously have served as a member of the board of directors of ICC."* Pursuant to the terms of the Final Judgment, the following persons were appointed as interim directors:

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* The Final Judgment further provided that said interim board of directors shall consist of at least three persons, shall be satisfactory to plaintiff Commission, shall replace the existing board of directors of International Controls, and shall have full power under applicable corporate law to conduct the affairs of International Controls in conjunction with the special counsel, subject to the terms and conditions of the Final Judgment. Any dispute between the Special Counsel and the board of directors shall be submitted to this Court for determination. The board of directors appointed pursuant to this paragraph shall hold office until further order of this Court upon application of plaintiff Commission and until further order of this court upon application of plaintiff Commission and until the shareholders of International Controls have elected a new board of directors in compliance with the provisions of the Securities Exchange Act of 1934.

John Mosler, Allen M. Shinn, Charles S. Desmond, and George D. Gould.* A condition of the appointment of these interim directors was that they would hold office only "until further order of this Court upon application of plaintiff Commission and until the shareholders of International Controls have elected a new board of directors in compliance with the provisions of the Securities Exchange Act of 1934." Nevertheless in the preliminary proxy materials, each of the interim directors is included in a nominee to the board. The Final Judgment did not contemplate that the interim directors would utilize their temporary appointments as a device to entrench themselves as directors of ICC to the exclusion of shareholder interests once the time for election of a new and independent board had arrived. Nothing in the Final Judgment indicates that the Court then intended to permit the interim directors to spend ICC funds for the purpose of maintaining themselves in office after they had performed the functions for which they were appointed.

Nor do the statements by the Securities and Exchange Commission made thus far evidence any intent to condone self-perpetuation by the court-appointed fiduciaries. In the Commission's Recommendations, filed March 8, 1977, the Commission called for the long-delayed shareholders' meeting of ICC to be held and for the election of a new board to occur at that time. The interim board was called upon to notify ICC shareholders of the scheduling of a shareholders' meeting, accompanied by "a request or invitation to all shareholders to submit to management names of appropriate candidates for election as new directors." Although the present management has indicated that shareholders were invited to submit suggestions, the results of this invitation have not been revealed.

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* As noted above, one of the five directors originally appointed has passed away.

The Final Judgment, the Commission's Recommendation and the order entered April 19, 1977 all contemplated a transition from court-supervised management of ICC to independent management via an election of a new board of directors conducted in an atmosphere of full disclosure to ICC shareholders and with shareholder participation in the selection of nominees to the board. The interim directors have chosen to ignore this mandate. Instead, they have followed a pattern of conduct which could only be designed to perpetuate their control of ICC at the expense of ICC shareholders.

In contests for control of publicly-held corporations the incumbents, who nominate what is designated as a "management slate", and have the use of the corporate treasury to wage the contest have an enormous advantage over all other shareholders of the corporation. Court-appointed directors should not have that advantage to benefit themselves by virtue of their court appointments. One of the Petitioners herein, Wade Malhas, who owns 109,200 shares of ICC stock has announced his intention to solicit proxies by filing a Form 14B with the SEC. No person, by virtue of a court-appointed fiduciary position, should have an advantage over Mr. Malhas in soliciting proxies.

We note that the preliminary proxy material prepared by the interim directors fails to make full disclosure to ICC stockholders of information material and relevant to the up-coming election. For example, no justification has been given for the inclusion of Elmer A. Sticco on the slate for election of the board. Mr. Sticco was President and Chief Executive Officer of ICC at the time of the Final Judgment and, indeed, was the individual who executed the Consent Settlement. One of the provisions of that consent called for the resignation of all directors of ICC, and the minutes of ICC authorizing entry into the Consent Settlement lists Mr. Sticco as one of the directors. Nevertheless, the interim directors now propose for election to the board the same Mr. Sticco compelled to resign as part of the Commission's proposed remedy. The inclusion of Mr. Sticco without prior Court approval and without any explanation to the stockholders is bewildering.

We note that the proposed slate prepared by the court-appointed directors includes Bernard L. Schwartz, Chairman of the Board and Chief Executive Officer of Loral Corporation and J. Hugh Liedtke, Chairman of the Board and Chief Executive Officer of Pennzoil Company. Mr. Shinn, one of the court-appointed directors has served on the boards of Pennzoil and Loral for several years. Petitioners believe that Loral Corporation is engaged, at least in part, in government defense contract work. ICC also is engaged in government defense contract work. Petitioners do not know whether or not the companies compete for the same kinds of contracts. However, additional disclosure on this point is surely indicated. Additional disclosure also is necessary as to how the nominees, other than the court-appointed directors were selected along with a complete disclosure as to each of the nominee's relationship to each other. In addition, no disclosure has been made of the process by which the present slate was chosen.

Rather than the full disclosure and open election envisioned by the Final Judgment and the Commission's Recommendation, ICC stockholders are being asked to exercise their voting rights for the return of their company to private management without benefit of adequate disclosure concerning the background of the proposed directors and the impact, if any, of stockholder participation in the selection process. Petitioners would expect the tactics which have been used by the court-appointed directors from incumbent management owning little stock of a public company attempting to perpetuate themselves in control. These defensive measures, when taken by a court appointed board, should be prohibited by the Court.

Petitioners contend that it is a violation of the terms of their appointment and of their obligations to ICC shareholders for the interim directors to use their position of extraordinary trust for personal benefit. These court-appointed directors have managed ICC's affairs for more than four years without the normal checks of annual election by the stockholders. The unusual circumstances present here place the interim directors under a fiduciary duty not to abuse their position of trust or even to appear to be abusing that trust. It is improper for these court-appointed directors to utilize the corporate proxy machinery and corporate funds to ensure themselves of continuing control over the management of ICC, particularly when the proposed slate represents only 2% of the outstanding shares of ICC. Only two members of the proposed slate own stock in ICC. Mr. Burgess owns 50,000 shares and Mr. Sticco owns 56,000 shares - the latter receiving all of his shares through the exercise of stock options. As noted above the court-appointed directors have said that they have not purchased stock in ICC because it would be "inappropriate" to do so. It is equally "inappropriate" for them to use their fiduciary positions and company funds to benefit themselves.

Stock Hold by Receiver

Andrew Maloney, as receiver, holds 968,843 shares of ICC stock formerly owned by Robert L. Vesco and Vesco & Co. Inc. Mr. Maloney has stated in an affidavit dated August 25, 1977 that he intends to appear in person or by proxy at the next sharholders meeting and have the stock counted for quorum purposes but not to vote the stock for the election of directors or for any matter that comes before the meeting. Petitioners believe that it would be improper for the stock held by Mr. Maloney to be counted for quorum or any other purpose at the meeting.

As we understand it, the stock held by Mr. Maloney was, in effect, levied upon for the benefit of ICC in partial payment of amounts owed by Vesco and Vesco & Co. Inc. to ICC. The stock, therefore, is in the nature of treasury shares of ICC and should not be voted and should not be counted for quorum or any other purpose at the next meeting of shareholders. Petitioners are concerned that if the stock is counted for quorum purposes at the meeting an attack upon the meeting may be made on the basis that the stock held by Mr. Maloney was improperly counted for such purpose.

WHEREFORE, petitioners respectfully request that the relief sought in this motion be granted.

Edward Brodsky

Edward Brodsky

Sworn to before me this

[illegible] day of September, 1977.

Notary Public

JO[illegible] LOEHNER
[illegible] New York
[illegible]6[illegible]
County
[illegible] County
Cert[illegible] [illegible] 30, 1978
Com[illegible]

SUPPLEMENTAL AFFIDAVIT OF EDWARD BRODSKY
SWORN TO ON SEPTEMBER 6, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, : 72 Civ. 5001 (CES)

-against- :

ROBERT L. VESCO, INTERNATIONAL CONTROLS CORP., : SUPPLEMENTAL AFFIDAVIT

:

Defendants.

:

- x

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

EDWARD BRODSKY, being duly sworn, deposes and says:

I am a member of the firm of Spengler Carlson Gubar Churchill & Brodsky, attorneys for petitioners, Wade S. Malha, Irving Horowitz, Martin Jacoby, Charles Birbara, Cornelius A. Hubner, Murray Dryer, Phil Birbara, N.E. Burgess and William Zeidman (collectively "Petitioners") in this action. This affidavit supplements my affidavit dated September 2, 1977 seeking certain relief with respect to a stockholders' meeting called by the court-appointed directors for October 18, 1977.

At my request Sheldon Camhy, counsel for International Controls Corp. ("ICC"), late in the afternoon of Friday, September 2, 1977, forwarded to me a copy of the articles of incorporation and by-laws of ICC (annexed hereto as Exhibits A and B). The by-laws indicate that they are "as amended to 8/18/77" and also state in Article 2, Section 1 that "the number of directors which shall constitute the whole board shall be 10."

I telephoned Mr. Camhy this morning and asked him whether or not the requirement of ten directors was a recent change in the by-laws. Mr. Camhy revealed that the ICC board of directors had increased the required number of directors from five to ten on August 18, 1977. This significant change in the by-laws was accomplished coincidentally on the same day that the interim directors picked the slate, and after the board had learned that one of the Petitioners herein had announced his intention to solicit proxies by filing a Form 14B. Thus, not only has the court-appointed board, without court approval, decided to nominate themselves to office but, in addition, without explanation to stockholders or any one else, they also have decided to increase the board from five members to ten. We respectfully request that this increase be rescinded.

The court-appointed board has not suggested to this Court why a slate of ten directors will be better for the company than a slate of five or, indeed, some other number. In addition, they have made this dramatic change in the number of board members secretly, without obtaining guidance from the court and without requesting opinions from any of the stockholders of ICC - the people who are the actual owners of the company.

The action of the court-appointed board distinctly aids their efforts to perpetuate themselves in office while making it more difficult for all other stockholders of ICC to nominate a slate which has a chance to be elected. Selecting a slate of ten people is more difficult for any one except the court-appointed directors. The court-appointed directors have selected themselves (consisting of four people), Milton Gould, counsel to the company, and Elmer A. Sticco who has been executive vice president and the chief operating officer of the company. That makes six out of the ten nominees. In addition, they have selected four other people, two of whom serve on boards of directors with one of the other court-appointed directors. Thus, as part of a plan to succeed themselves in office, the court-appointed directors, by increasing the board to ten, are attempting to keep control of the company for themselves by making it more difficult for the other stockholders to compete with them.

We urge that the Court should not condone this action and should rescind the action of the court-appointed board increasing the board to ten members so that the by-laws would require a board of five.

Edward [illegible]

Sworn to before me this
6th day of September, 1977.

Marie Stasiuk
Notary Public

MARIE STASIUK
Notary Public, State of New York
No. 41-3815923
Qualified in Queens County
Commission Expires March 30, 1977

AFFIDAVIT OF JOHN MOSLER SWORN TO ON SEPTEMBER 6, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- -X 72 Civ. 5001 (CES)
:
SECURITIES AND EXCHANGE COMMISSION,
:
Plaintiff,
:
-against- AFFIDAVIT
:
ROBERT L. VESCO, et al.,
:
Defendants.
:
- -X

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

JOHN MOSLER, being duly sworn, deposes and says:

1. I am Chairman of the Board of Directors of International Controls Corp. ("ICC"), a Florida corporation. I make this affidavit in opposition to the motion of Petitioner Malhas for an order which would prohibit the present members of the Board of Directors from standing for reelection or using Company funds to solicit proxies on behalf of a slate of directors which includes themselves and for other relief as set forth in the Notice of Motion dated September 2, 1977. I am fully familiar with the matters hereinafter set forth.

2. Although the individuals who presently serve on the Board were designated by this Court, acting pursuant to its Final Judgment of March 16, 1973, said persons were elected to their office by the former directors at a meeting duly held on March 27, 1973 in accordance with regular corporate procedures for filling vacancies. (See Minutes of meeting of March 27, 1973 submitted herewith as Exhibit "A".) There is no question but that the members of the present Board have a responsibility to this Court

for the proper administration of their offices. However, I am advised that as Directors (not Court receivers), our powers are derived from the charter and by-laws of the corporation, the corporation laws of the State of Florida and corporate law and business practices as generally applied and understood.

3. In exercise of its powers, the present Board has (a) prepared a Notice of Meeting and Proxy Statement in the usual form, (b) set forth a slate of ten directors* (of which four are incumbent) to be nominated at the meeting and (c) authorized the retention of a proxy solicitor and the expenditure of Company funds for the solicitation of proxies for said meeting. (See Notice of Meeting and Proxy Statement annexed to Brodsky Affid. as Exhibit "D".) All of the foregoing actions are standard procedures of corporate management of publicly held companies.

4. No prohibition appears in the Final Judgment against the taking of any such action. Indeed, the Final Judgment provides in its fourth decretal paragraph that the Board shall have "full power" to conduct the Company's business under "applicable corporate law." (Brodsky Affid., Exhibit "A" at p. 6, ¶(4).) This Court's order of April 18, 1977 directing that in advance of the forthcoming meeting the Board solicit suggestions for nominees from the stockholders recognized that as part of its functions the Board would be preparing proxy material with a slate of nominees in the customary way.

5. The present Board prepared the proxy statement and has selected a slate of directors to be placed in nomination at the stockholders meeting for two basic reasons:

(i) in order to see to it that there will be a meeting, a quorum and a slate of qualified directors to be voted upon whether or not other stockholders decided to put up a slate or solicit proxies for the meeting; and

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*Pursuant to power granted by the by-laws, the number of directors was raised from five to ten by an amendment to the by-laws adopted August 18, 1977 by the present Board.

(ii) in order that the stockholders may have the opportunity to vote for a slate which, if elected, would afford the Company some continuity of policy and personnel.

6. The present directors are not prohibited from standing for re-election or from preparing and circulating proxy soliciting material by the Final Judgment of March 16, 1973. Nor does said Final Judgment purport to prevent the Company from soliciting proxies for a management slate in which four members of the present Board are included. The four members of the present Board seek to continue on a new Board elected by stockholders because in their judgment the Company would benefit from a strong thread of continuity of judgment and policy in certain areas. These are:

(a) The claims against the Company by IOS dollar funds and other IOS related entities, which claims substantially exceed the Company's net worth.

(b) The negotiations with respect to such claims between the Company and representatives of liquidators of IOS related entities in an effort to remove all contingencies presently affecting the Company's balance sheet by reason of its involvement with IOS.

(c) Continued litigation with Robert Vesco and his company, Vesco & Co., over the judgment recovered by ICC against Robert Vesco and ICC's right to reach the value of the shares of ICC stock formerly standing in the name of Vesco & Co.

(d) The captive minority interests which exist in the Company's major subsidiaries.

(e) The pending stockholder class action with respect to the accuracy of the Company's prior financial statements.

(f) The question of whether and how claims may be asserted by the Company against the Company's former counsel and former auditors.

(g) The very serious tax litigation against the Company arising in substantial part from IOS matters.

(h) The question of whether and on what conditions the Company should retire outstanding debt.

In addition to the foregoing, the general financial and operational development at the Company would benefit from continuity at the Board level and would give operating management a feeling of stability and security. It cannot be disputed that under the stewardship of the present Board, the Company has achieved excellent results. In our judgment, it would be wise to afford a strong element of continuity to this management team. We are also concerned that a management entirely new might, out of design or lack of experience, take actions motivated more by a need to move stock to higher price levels temporarily than to deal with the problems and potentials on a long range basis. This is particularly of concern to us in matters relating to the handling of the IOS claims and the stock formerly owned by Robert Vesco.

7. Mr. Sticco was selected as a nominee because he has the confidence of the present Board and of the top managerial personnel in the Company's operating divisions. This is based on a proven record of success over the last four years. He is a person of demonstrated skills and integrity. Under the expert guidance of Admiral Shinn, our Chief Executive Officer, he has made a tremendous contribution to the Company. Special Counsel has advised the Board that his investigation has disclosed no basis for any objection to Mr. Sticco serving on the Board. It should be pointed out that although Mr. Sticco resigned as a director in order to make way for the Court-appointed Board, he had merely been acting as a caretaker director functioning during the latter stages of the emergency which faced the Company during 1972 and 1973. His resignation was not "compelled" by any proof or even charges of his complicity with Robert Vesco in wrongdoing but by reason of his desire to make way for an entirely new slate.

8. Mr. Burgess was selected as a nominee because he is a substantial stockholder of the Company, was known to other stockholders and suggested by them, and had experience in the management of one of the Company's major operating divisions prior to its acquisition by the Company.

9. Mr. Liedtke, Mr. Schwartz and Mr. Karp were selected because they were personally known to members of the Board of Directors, were eminently qualified to serve on the Board by reason of their experience as senior officers and directors of multi-divisional industrial companies, and because they were willing to serve. Our objective was to enlist people who could

give qualified judgments as to management's performance, expert guidance to management and whose very association with the Company would improve the Company's stature in the industrial community. So far as we know, no competitive conflict of interest exists between ICC and any company with which these nominees are presently associated. Should one occur in the future, I am satisfied that the matter will be handled consistent with the highest ethical standards.

10. Mr. Gould was selected as a nominee because he is a lawyer fully familiar with ICC's complex affairs and recent legal history. We believed this useful since the Company is to remain under the Court's jurisdiction and Special Counsel will continue to function.

11. The fact that we have selected these nominees does not preclude any stockholder or group of stockholders from placing other names in nomination or for soliciting proxies for such persons. To date, we have not been advised that any person intends to make such nominations at the meeting or to engage in a proxy solicitation for a slate of directors. At the time we made our selections, we were not aware that Dr. Malhas had filed a Form 14B, but even Dr. Malhas' 14B filing does not state that he is proposing a slate or identify any candidates for director. As matters presently stand, unless management's proxy statement names a slate of nominees and solicits proxies for them, there may be no quorum and no slate of qualified directors for the stockholders to vote upon. As a practical matter, with shares as widely dispersed as in ICC, it is also necessary and customary to employ professional proxy solicitors to ensure a quorum and a vote.

12. Dr. Malhas asks for an order that ICC formulate a plan which gives stockholders an "opportunity to suggest nominees to the Board." There has already been compliance with the Court's order of April 18, 1977 which directed us to inform the stockholders of the intention to hold a meeting and give them an opportunity to make suggestions of nominees. Such suggestions were received and consideration was given thereto. Mr. Burgess and Mr. Sticco and the members of the present Board were the subject of such suggestions received from stockholders. No suggestions for nomination were received from Dr. Malhas. Had such suggestions been made by him, they would have received serious consideration. Dr. Malhas, having decided not to participate in the process set up by the Court's order of April 18, 1977, now wants it to begin all over again. We submit that this is not possible if a meeting is to be held promptly.

13. Dr. Malhas is free to nominate directors and seek their election. In accordance with his request, he will be furnished with a list of the stockholders of the Company as at the record date in order to facilitate his solicitation of stockholder support if he chooses to do so. All we have done is fulfill our responsibility to see to it that (i) the Company has an Annual Meeting, (ii) a quorum is present, and (iii) there is available to the stockholders a slate of experienced, competent and qualified directors for whom the stockholders may vote if they so choose.

14. I am advised that the ICC stock formerly standing in the name of Robert Vesco and Vesco & Co. and now held by Mr. Maloney as this Court's receiver, is still deemed issued and outstanding stock by the transfer agent and for purposes of the Company's balance sheet. Under the circumstances, the stock must

be counted for quorum purposes and it was for this reason that the Company suggested to the receiver that he apply for permission to have the stock represented at the meeting so that there would be a quorum but not to vote the stock for any matter in view of the special nature of his custody.

WHEREFORE, it is respectfully requested that the motion of Petition Malhas, et al. be denied in all respects.

John Mosler

Sworn to before me this

6th day of September, 1977.

Notary Public

IRENE E. NAKONECZNY
Notary Public, State of New York
No. 41-4042088
Qualified in Queens County
Certificate filed in New York County
Commission Expires March 30, 1979

EXHIBIT A--MINUTES OF SPECIAL MEETING OF BOARD OF DIRECTORS OF INTERNATIONAL CONTROLS CORP.

MINUTES OF A
SPECIAL MEETING OF THE
BOARD OF DIRECTORS OF
INTERNATIONAL CONTROLS CORP.

A special meeting of the Board of Directors of the Corporation was held at 10:00 A.M. on March 27, 1973, at offices of Shea Gould Climenko & Kramer, 330 Madison Avenue, New York, New York 10017. The following directors were present at the meeting:

Frank G. Beatty
Malcolm McAlpin
Laurence Richardson
Michael Rossi
Wilbert E. Snipes
Elmer A. Sticco

Also attending the meeting, at the invitation of the Board, were Milton S. Gould, C. Leonard Gordon and Michael Lesch of Shea Gould Climenko & Kramer, and Martin Mensch of Dornbush Mensch Mandelstam & Schwartz. Mr. Sticco acted as Chairman and C. Leonard Gordon was appointed to act as Secretary of the meeting. Mr. Sticco called the meeting to order.

Mr. Gordon presented to the Board the minutes of the meetings of the Board held on February 14, February 26, and March 2, 1973, and read aloud those of March 13, 1973.

Thereafter, upon motion duly made and seconded, said minutes were approved, subject to any further comments which the Directors might make by letter.

Mr. Mensch asked, if the proposed resignations of Directors were given and accepted, would it prejudice any rights or claims any of the Directors might have. Mr. Milton Gould advised that was his understanding. It was the general consensus of the meeting that the resignations did not prejudice any rights or claims of the resigning Directors.

Thereupon, the resignations, as Directors, of Messrs. Gustlin and Sears were accepted and Messrs. George Gould and Charles S. Desmond were elected. At this point, Messrs. George Gould, Charles S. Desmond, John Mosler, Allen M. Shinn and Joseph L. Weiner entered the room. Mr. Laurence Richardson resigned and Mr. John Mosler was elected a director. Mr. Malcolm McAlpin resigned and Allen M. Shinn, Vice Admiral, USN was elected a director. Mr. Wilbert E. Snipes resigned and Joseph L. Weiner was elected a director. Messrs. Frank C. Beatty, Michael Rossi and Elmer A. Sticco also resigned as directors. At this point, all of the resigned directors left the room. Mr. Gordon stated that he would annex the resignations of the directors to the minutes of the meeting.

Mr. Milton Gould suggested that the first order of business would be to select a Chairman. He stated the job would involve considerable work including liaison with management, the Court, the SEC, and counsel. Mr. Weiner suggested that the Board should get to know each other first, and the matter was deferred.

Mr. M. Gould then described the history leading up to the appointment by the Court of this Board and of special counsel. The Board was advised that special counsel was appointed by the Court and that ratifying his appointment, while not necessary, would be appropriate. Thereupon, the Board unanimously ratified the appointment of David Butowsky, Esq. as special counsel to the company in accordance with the final judgment of the Court.

The Board was advised by Mr. M. Gould that his firm was available to function as general counsel and to assist special counsel as needed. The Board was advised that everyone had wanted his firm to be general counsel and that the first draft of consent judgment, at the suggestion of the Court, had designated Shea Gould Climenko & Kramer as general counsel; that the objection was raised, and quite properly, in Mr. Gould's opinion, that the Board should have discretion in this matter. Mr. M. Gould stated that his firm would serve as general counsel if the board desires. He stated that, if at any time the Board desires other general counsel, his firm will step out. The firm will serve at the pleasure of the Board. Thereupon, the Board unanimously resolved to appoint Shea Gould Climenko & Kramer general counsel to the Company.

At this point, a Mr. George Georges, a shareholder of the Company, who had asked to address the Board was admitted to the meeting. He was told that the Board had no time to hear him now (it being 11:30 A.M.). Mr. Georges said that he spoke for aggrieved shareholders, "we have somewhere around one and one-quarter million shares", and he wanted to address the Board on the selection of management. Admiral Shinn advised him that he should put his suggestions in writing for the Board to consider. He said, "I don't have a secretary", and asked for assurance that the Board would take no action in the selection of a Chief Operating executive without giving him an opportunity to be heard. He was told that the Board was not in a position to give any assurance at all. Mr. Georges then said that he was here to espouse the cause of Richardson that if the Board did not act on his suggestions, he would have to take some sort of action. He said the shareholders were grateful that this Board had been selected and that he wanted to be heard before management was selected. Mr. G. Gould stated that while no assurance could be given, the Board was just being oriented and that it was unlikely that any action to select management would be taken at this early stage. Mr. Georges then left the room.

There followed a discussion about the independent accountants of the Corporation, after which the Board voted unanimously to continue the firm of Laventhol, Krekstein, Horwath & Horwath.

Admiral Shinn then told the Board the background of his acquaintance with the Company. At this point (Mr. Butowsky entered the room).

Mr. Richardson, who had requested an opportunity to talk to the Board, was invited to enter the room. He presented a letter and stated that he was requesting reinstatement as President of the Company. He said that he was in a position to put back the team that joined him in fighting the Vesco group, Benjamin and Polisar. He said that Benjamin was a good candidate for Chief Financial Officer and Polisar for General Counsel. He stated that he had earned that job, and that the Board could discuss him with the SEC, Prudential Life Insurance, the stockholders group, and the U.S. Attorney's office. His attorney said he does not feel he is going to be a defendant. He then told the Board his business background, and his association with Vesco. Admiral Shinn asked him why he had, so to speak, turned on Mr. Vesco when he did and not earlier. He stated that he had been a victim of the world's greatest salesman and he didn't know the facts until then. Mr. M. Gould asked him why he went to see Maurice Stans. He stated "I just happened to be in Washington that day." Thereafter, he said, he accompanied Mr. Sears who took the $200,000 to Mr. Stans because Mr. Vesco asked him to. Mr. Richardson suggested that the Board could talk to the U.S. Attorney's office. He said, "I wouldn't ask for the job if I thought it would embarrass me or the Company." Mr. Richardson was asked who selected Laventhol, Krekstein, Horwath & Horwath. He said that he believed that Hogan and Hartson suggested them and that Vesco did not play a role in that and he thought they had been doing an excellent job. Mr. Richardson then left the room.

The Board ordered sandwiches and continued the meeting through lunch. Mr. Sticco then entered the meeting and presented an information packet. There followed a discussion of the organization's financial statement, cash flow, summaries, preliminary balance sheet and other matters.

It was noted that, at 3:30 P.M., the Board should move on to the immediate organization problems. At that point, Mr. Sticco left the room. Mr. Weiner said that it now appeared necessary that a Chairman of the Board be elected. He said that in his judgment it should be someone with a business background.

After discussion, Mr. Weiner nominated Mr. Mosler, Chairman of the Board, and he was unanimously elected.

The Board then resolved that all non-defendant employees should remain, pending further studies. It was determined that the next meeting of the Board of Directors should be held on Wednesday, April 4, 1973 at 10:00 A.M.

Upon motion duly made and seconded, the meeting was adjourned at 4:00 P.M.

SECRETARY

AFFIDAVIT OF RAOUL GERSTEN SWORN TO ON SEPTEMBER 6, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,	:	72 Civ. 5001 (CES)
Plaintiff,	:	Affidavit With Respect To The Sequence of International Controls Corp. Stockholders Meeting and Special Counsel's Report
-against-	:	
ROBERT L. VESCO, et al.,	:	
Defendants.	:	

STATE OF NEW YORK)
)ss.:
COUNTY OF NEW YORK)

RAOUL GERSTEN, being duly sworn, deposes and says:

Identity of Parties

1. He is a member of the firm of Forsyth Decker Murray & Hubbard, which is counsel to Jacob A. Schiltkamp and Cornelis G. Hartog, appointed by the Court of Curacao as liquidators of Venture Fund (International), N.V. ("Venture"). Venture was one of the mutual funds managed by defendant I.O.S., Ltd. ("IOS") that was a victim of the frauds of Robert L. Vesco ("Vesco") and his group which included International Controls Corp. ("ICC").

2. Venture is a defendant in and has entered into a consent order on July 12, 1974 in this action.

3. In connection with the subject matter of this affidavit, several other former IOS-related entities are similarly situated. These are:

A. IIT, an International Investment Trust ("IIT"), a Luxembourg mutual fund, which is also in liquidation and a defendant in this action;

B. The Fund of Funds, Limited ("FOF"), an Ontario, Canada mutual fund which is in liquidation and a defendant in this action;

C. IOS Ltd. ("IOS"), a New Brunswick, Canada company which is being judicially wound up and which is a defendant in this action;

D. Transglobal Financial Services, Ltd. which is an Ontario, Canada corporation whose charter has been rescinded and which is a defendant in this action.

4. Arising out of events that commenced over seven years ago, and continued through 1973, Venture and the other interested defendants have substantial claims against ICC.

Summary of Problem

5. Under the aegis of the SEC and the International Committee of Regulatory Authorities and Liquidators of I.O.S. Related Companies and Investment Funds ("International Committee"), ICC and the interested defendants have been diligently working on a settlement. Venture and the other interested defendants have foreborne from many actions against ICC because of (a) the SEC, (b) the International Committee and (c) the control over ICC by this Court and the court appointed board of directors. The contemplated sequence of events was first, a report of ICC's Special Counsel ("Special Counsel"), second, a period of time for Venture and the other interested defendants to finalize a settlement with ICC and, finally, an ICC stockholders meeting. This sequence has recently been disregarded and departed from, to the fundamental prejudice of Venture and the other interested defendants.

6. Venture and the other interested defendants are being operated by, in effect, fiduciaries. These fiduciaries do

not presently believe that they can finalize a settlement until they have had an opportunity to review the Special Counsel's report. A prudent fiduciary should have this report at hand before resolving claims of the magnitude involved. The interested defendants have been working on the assumption for a considerable period of time that they would have access to Special Counsel's report before finalizing any settlement. Because of the involvement of the SEC, the International Committee and this Court, Venture and the others have been led to believe that the same settlement procedures would obtain with respect to the ICC claims as have obtained in the past with respect to the many other IOS-related controversies settled through the good offices of the SEC and the International Committee. Having traveled down the path of a settlement under the aegis of the SEC and the International Committee, Venture and the other defendants are suddenly faced with a drastic change in that sequence of scheduled events which will remove ICC from the influence of the SEC, the International Committee and this Court. This change in the claim settlement structure will have a substantial negative impact upon the settlement negotiations and will bring the efforts of many parties, including ICC, the SEC and the International Commitee to naught. Venture and the other defendants have relied to their substantial detriment upon the sequence of events heretofore envisioned by this Court and settlement structure established by the SEC and the International Committee. The sequence and structure should be maintained.

The Unfinished Business of the Present Court Appointed Board of ICC

7. There remain two massive pieces of unfinished business for the present court appointed Board of ICC. First, preparation and publication of the Special Counsel's Report.

Second, settlement of the claims being asserted against ICC by the IOS-related entities such as Venture which are defendants in this action. These pieces of unfinished business are interrelated. The report of Special Counsel will be of significant value to ICC and the claimants in the settlement of the claims.

Venture's Claims Against ICC

8. In the words of the SEC in its Post-Trial Memorandum of June 8, 1973, from 1970 on Vesco and ICC proceeded to "...engineer a vise-grip on IOS and its funds." Within that grip the funds were brutally looted. In general, the claims of Venture and the similarly damaged IOS entities against ICC are based on the fact that if ICC had not assisted Vesco in the IOS takeover, then none of the subsequent losses would have occurred. In addition, each of the interested defendants has claims related to their own specific facts.

9. In Venture's case such facts are striking. ICC caused Venture to sell substantially all of its readily marketable investments. During 1972 over $41,000,000 worth of U.S. listed securities (representing over 80% of the net market value of Venture's then current assets) were sold and ear-marked for plunder. Of that $41,000,000, nearly half ($20,000,000) was caused to be invested in two Bahamian shell companies whose sole business activity was to serve as the instruments for the plunder. Of that $20,000,000, $7,350,000 was immediately and directly paid to ICC in a June 1972 transaction which successfully (for ICC) accomplished a bail-out of ICC's remaining investment in IOS, and, in fact, accomplished this bail-out not only without loss of real control, but at no cost to itself.

10. The particulars of the bail-out are as follows: In March, 1972, ICC sold to Kilmorey Investments Limited all of

its outstanding stock in Hemispheres Financial Services Limited ("HFS") and ICC Investments Limited ("IIL") for $200,000 cash and a five percent unsecured promissory note for $300,000. Contemporaneously HFS delivered to ICC a $412,000 five percent unsecured promissory note, and IIL delivered to ICC a $225,000 five percent unsecured promissory note. HFS, IIL and Linkink Progressive Corporation ("LPC") gave indemnities to ICC in respect of tax liabilities arising from the ICC investment in IOS. Subsequently, in June, 1972, ICC sold to Global Financial Limited ("GFL") as Purchaser and Global Holdings Limited ("GHL") as Guarantor, the following assets for a purchase price of $7,350,000 (payable in five promissory notes by GHL due through a period July 1, 1973 through 1977):

(a) The Kilmorey note

(b) The HFS note

(c) The IIL note

(d) A VCL note for $940,000

(e) 2,350,767 shares of VCL voting stock

(f) 1,760,767 shares of IBL voting stock

At the time of this transaction, neither GHL nor GFL had money or assets to finance the transaction, but after the June 20, 1972, Venture "investment" of $20,000,000 into GHL and GFL ("the Globals"), such monies became available. On June 29, 1972 Le Blanc (one of Vesco's principal lieutenants), as President of the Globals, authorized the full prepayment of the five promissory purchase notes and payment was made by order from the Globals to the Bank of America for the account of ICC.

11. The costs were borne, and continue to be sustained, by the Venture fundholders who, instead of owning listed U.S. stocks, find themselves put to years of delay and expense and

risk of loss in seeking to recover moneys and assets hidden in the legal and geographic mazes and minefields described in the preceeding paragraph.

The International Committee

12. The IOS complex was in total disarray when the SEC brought the instant case in November, 1972. Following the institution of this case, it was recognized that the only fair and practicable way by which IOS-complex investors and creditors could be satisfied would be by a cooperative international effort. The International Committee was formed to guide the effort. Initially, the Committee consisted of SEC Commissioner Irving M. Pollack for the United States, as well as representatives of the Securities Commissions of the Provinces of Ontario and Quebec, and of the Banking Commission of the Grand Duchy of Luxembourg. Subsequently, the Assistant Deputy Minister of Corporate Affairs of the Canadian Government's Department of Consumer and Corporate Affairs and the Attorney General of the Netherlands Antilles have become members of the International Committee.

13. The International Committee was formed for the primary purpose of coordinating and directing the recovery of assets in the IOS complex, and the fair and equitable distribution of these assets to worldwide creditors and investors.

14. In the case of IOS the cooperation transcends the borders of many countries. Without international cooperation there would be innumerable local liquidations and seizures by creditors and investors around the world. Such local actions would result in uneven treatment of creditors and investors, and unascertainable costs for each entity to be liquidated in duplicative proceedings.

15. As each IOS-related company has gone into liquidation in a new country, the International Committee has invited that country to send a representative to the Committee. For example, the International Committee has invited representatives of the French, Swiss and Bahamian governments to cooperate, to the extent that IOS entities, assets and documents exist in their countries. Such unprecedented international cooperation is laudatory and beneficial. The experience of the International Committee is not only important to the fair winding up of the IOS-complex. It may also be the basis for future international cooperation, as the jet age, sadly, rings in more and more securities frauds of a multi-national nature.

16. The importance of the role of the International Committee, in assuring the fairness of relevant proceedings, has been recognized by this Court. See, e.g., Final Consent Order concerning Venture dated June 12, 1974.

Changing the Structure and Sequence of Negotiations Will Result in a Multiplicity of Litigation

17. Venture and the other interested defendants have pursued settlement with ICC within the SEC and International Committee structure and on the expressly stated direction that the Special Counsel's Report would be available before ICC was removed from the protection of a Court appointed board of directors, the good offices of the SEC and the guidance of the International Committee. To this end ICC and the claimant defendants have entered into a series of waivers of the limitation periods reflecting the underlying assumption of extended international settlement efforts. In addition, certain claims ICC has against IOS related entities will be settled. All of that has now been changed.

18. If the basis for the settlement negotiations are changed, this Court is faced with the prospect of separate, long and complicated cases brought by Venture, IIT and possibly the other interested defendants.

19. In addition to settlement of the claims asserted by the defendants listed in paragraph 3 hereof, the present settlement discussions with ICC foresee a settlement of possible claims that may be asserted against ICC by all of the other IOS related entities such as:

(a) Global Natural Resources Properites Limited
(b) Investment Properties International, Ltd.
(c) Value Capital Limited
(d) Property Resources Limited
(e) International Bancorp Limited
(f) Bahamas Commonwealth Bank
(g) Overseas Development Bank Luxembourg S.A.

20. Thus, it is vitally important to this Court that the present structure and previously established sequence be maintained in order to conserve this Court's resources and hopefully to avoid years of costly litigation.

Venture's Participation in the Settlement Negotiations

21. Why have Venture and the other interested defendants delayed aggressive enforcement of their claims against ICC? The claims of the IOS related entities would amount to many times the present assets of ICC. In this, and similar situations of multiple claims and insufficient assets, the SEC and the International Committee have accomplished global settlements on a fair and equitable basis to all of the competing interests.

22. Venture and the other interested defendants have exercised forebearance in view of the progress of negotiations,

and they have relied on the SEC interest and the International Committee interest in an equitable conclusion of the negotiations. If the SEC now shifts its position and the Court provides no protection, then the forebearance will have profoundly harmed Venture and the other interested defendants. Venture and the other interested defendants could not have reasonably foreseen that the SEC and the Court would take a decisive step before the Special Counsel's Report had been completed, reviewed and acted on.

Conclusion

Venture respectfully requests that this Court:

A. Re-establish the scheduled sequence of events so that it will be (i) Special Counsel's Report, (ii) reasonable time for settlement among ICC and many of the defendants in this case and (iii) a stockholders meeting.

B. Maintain the existing structure of a Court appointed board for ICC and settlement negotiations under the auspices of the SEC and the International Committee until a reasonable time after the report of ICC's Special Counsel is issued.

Dated: New York, New York
September 6, 1977

Raoul Gersten
RAOUL GERSTEN

Sworn to before me this 6th

day of September, 1977.

Notary Public

[illegible]
Notary Public, State of New York
No. 31-4500707
Qualified in New York County
Commission Expires March 30, 1979

AFFIDAVIT OF EUGENE R. ANDERSON SWORN TO ON SEPTEMBER 6, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION,	:	72 Civ. 5001 (CES)
Plaintiff,	:	Affidavit With Respect to the Sequence of International Controls Corp. stockholders Meeting and Special Counsel's Report
-against-	:	
ROBERT L. VESCO, et al.,	:	
Defendants.	:	

---x

STATE OF NEW YORK)
)ss.:
COUNTY OF NEW YORK)

EUGENE R. ANDERSON, being duly sworn, deposes and says:

1. I am a member of the firm of Anderson Russell Kill and Olick, P.C., attorneys for the defendant, IIT, an International Investment Trust ("IIT") and Georges Baden, Jacques Delvaux and Ernest Lecuit as Liquidators of IIT ("Liquidators"). On April 4, 1974, IIT entered into a Final Consent Order which inter alia recognized the right of the Liquidators to act on behalf of IIT.

2. I have read the affidavit of Raoul Gersten dated September 6, 1977 entitled "Affidavit with respect to the Sequence of International Controls Corp. Stockholders Meeting and Special Counsel's Report."

3. On behalf of the IIT Liquidators I join in Mr. Gersten's affidavit and in the relief requested in that affidavit.

Dated: New York, New York
September 6, 1977

Eugene R. Anderson

Sworn to before me this 6th
day of September, 1977.

Notary Public

LEON D. K[illegible]
Notary Public, State of New York
No. 31-4506767
Qualified in New York County
Commission Expires March 30, 1979

V

TRANSCRIPT OF HEARING DATED SEPTEMBER 7, 1977

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- x

SECURITIES & EXCHANGE COMMISSION :

vs. : 72 Civ. 5001

ROBERT L. VESCO, et al. :

- x

September 7, 1977,
11:30 A.M.

Before:

Hon. Charles E. Stewart,
District Judge.

Appearances:

GREGORY GLYNN, ESQ., and
FREDERIC M. KRIEGER, ESQ.,
Attorneys for SEC.

RAOUL GERSTEN, ESQ.,
Attorney for Defendant Venture Fund (Intl), N.V.

EUGENE ANDERSON, ESQ.,
Attorney for Defendant IIT.

EDWIN BRODSKY, ESQ.,
Attorney for Petitioners.

SHELDON CAMHY, ESQ.,
Attorney for Defendant International Control Corp.

MR. CAMHY: Your Honor, may I be heard on a short application?

THE COURT: Yes.

MR. CAMHY: I have been informed that the Commission is going to inform the Court that it has no position on the present motion, or that it has not formulated its position; or that it will need more time to announce a position. I may be wrong. If I am wrong--

THE COURT: I suspect that you are not stating it the way Mr. Glynn would like it stated.

MR. CAMHY: Maybe Mr. Glynn ought to state it because I don't want to say anything that is not so.

MR. GLYNN: Your Honor, I was completely taken aback by his first statement, in other words, that the Commission has no position on the present motion. I have been checking papers which are now about six inches in thickness, the last of which I saw this morning at about a quarter of 10, which are Mr. Brodsky's supplemental affidavit and Mr. Mossler's affidavit in the Shea, Gould brief and then I saw about five or ten minutes ago Mr. Gersten's affidavit.

Your Honor, I might shortcut this by saying that I have had discussions with the most senior members of the staff of the Commission on this, and because the challenge to the ability of the directors to run as a slate is of such a suggestive or serious legal nature, and together with the ancillary issue as to whether they can use corporate funds, the issue of whether Mr. Stickel can run, and the entire transition issue, that the Commission's staff believes that it would be only appropriate, in fact mandatory, for it to go to the Commission and have the Commission formally take a position as we did with the recommendations back in March; and that the matter should be fully briefed and orally argued at a hearing in the relatively near future, but it's been done on such a short time schedule starting with an order to show cause that it should be done today.

THE COURT: All right. Now go ahead, Mr. Camhy.

MR. CAMHY: I just wanted your Honor to know that before we engaged in a lengthy oral argument, because as you know, our time schedule is tight.We are in a way at the-- on the schedule of the Commission and wholly apart from this, in that they have to release our proxy material in the conventional way as to adequacy of disclosure.

THE COURT: I take it they aren't about ready to do that?

MR. CAMHY: Well yes, except that without becoming too much of a constitutional purist, I don't think they have a right to tell Corp. Fin. not to make comments about the contents of our disclosure just because they have some other problem relating to the substance of the matter. I think in one situation the Commission is a litigant, in the other situation the Commission is an administrator; and it would be my hope that Corp. Fin. would make the comments, and then we could proceed subject, of course, to the issues in this litigation, and what I am trying to suggest without being too impolite to the government is that if this application has any meaning, and if the schedule which we are trying to adhere to has any meaning, and the need for a meeting of stockholders has any meaning and all of the things that we discussed last week, I would like your Honor to consider that a resolution of the matter today or within a day or two is obviously what's indicated.

THE COURT: I'd like to hear from some of the others, Mr. Camhy. You would like to go ahead as promptly as possible?

MR. CAMHY: Yes, except for this, that if your Honor believes that there is no way we can go ahead until the Commission has done what Mr. Glynn suggests it is going to do, then should we go through this exercise this morning? Should not we do it after the Commission has done what it's going to do.

THE COURT: Yes. Mr. Brodsky?

MR. BRODSKY: Thank you, your Honor.

Your Honor, this is an application on behalf of petitioners whom I represent who own more than 200,000 shares of the stock of International Controls Corp. My application, your Honor, is for an order prohibiting these court appointed directors, four of them from succeeding themselves in office, prohibiting them from spending --

THE COURT: You are dealing now with the -- your motion which you just recently filed?

MR. BRODSKY: Yes, indeed, your Honor.

THE COURT: Before we get to that, what do you think our agenda ought to be this morning?

MR. BRODSKY: I see. Well, it seems to me, your Honor, that if your Honor is going to agree with the Commission as I do, that we should have the Commission's views on this subject, it seems to me the Commission has been a party to this case all along and the Commission's views on this subject are important, I would certainly--

THE COURT: It also seems to me that you as a representative of some stockholders would very likely be interested in the position which Mr. Anderson has just taken.

MR. CAMHY: I am indeed. I am not sure it's entirely consistent with my position, but I am indeed interested in that position.

THE COURT: What he is saying, it seems to me, if he is right, he is saying that proceeding the way Mr. Camhy would like to proceed would be injurious to the company which means to your client.

MR. BRODSKY: Yes, indeed, I understand that.

THE COURT: Well, I am concerned not only about the posture that the Commission now is in, but at least as much so by the position which Mr. Anderson has taken, which I have just seen his papers this morning. I think we are going to have to wait a few days so that the matter can be more fully briefed and people can be more fully prepared than they are at the moment to tell me answers to some of the questions that I have got on my mind. How much time do you think the Commission is going to take, Mr. Glynn?

MR. GLYNN: Well, your Honor, if I put it on the emergency calendar, I can probably get an answer by the middle of next week.

I don't think I could do it much before then.

THE COURT: That's what I am thinking of. I know we have a holiday Tuesday and Wednesday of next week. Before we go any further,Mr. Anderson, is there anything you'd like to tell me?

MR. ANDERSON: Well, your Honor, I believe that some time here is necessary. I think that my clients would like to have this talked out with the Commission to determine whether or not our position is in tune with the Commission as we believe that it was up until now or not. I think that these, both the problem of the stockholders' meeting and settling relationships among what are probably eight or ten defendants here have both been proceeding for a long period of time, and I would like to talk to the Commission about finishing that piece of business.

THE COURT: I think that would be desirable. Your position raises some questions in my mind, I am not quite sure why the timetable which you say you have been relying upon is so important to you. A new board elected by the stockholders which if the management proposal is adopted will carry over in large part most of the old board, all of the old board, I would suppose would be just as well equipped and would have the benefit of stockholders' election, they would be just as interested in settlement and would be just as fully aware of all the problems and would have the same responsibilities, if not more so, because of the stockholder vote, than the present board. I guess I can understand why you'd like to see Mr. Butowsky's report before you settle, which might suggest that -- well, it suggests several possibilities. One would be to put off a vote and the election of new directors. Another would be to go ahead with the election of new directors, wait for the Butowsky report, and then complete, if you can, the settlement negotiations. These are questions that I have in mind and I'd be interested in knowing what others think about those problems and I don't suppose they have had a chance yet to fully understand the problems. So I welcome your notion if you would like to discuss this not only with the SEC but perhaps with others.

MR. ANDERSON: Your Honor, it's almost ludicrous to state that the matters involved here have been extraordinarily complex, multi-parties, multi-countries. And in the last three years, with the assistance of the SEC and the intergovernmental committee, extraordinarily complex matters have been resolved.

THE COURT: Yes, I am sure of that, and those are matters which I of course have very little, almost no knowledge of. For example, I find in Mr. Gersten's affidavit a statement that puzzles me. It's on the third page, Mr. Gersten, of your affidavit. You say "Because of the involvement of the SEC, the international committee in this court venture and the others have been led to believe that the same settlement procedures would obtain" -- the same settlement proceedings would obtain with respect to ICC claims as have obtained in the past with respect to many other IOS related controversies settled through the good offices of the SEC and the international committee.

I don't know that it's important for me to know more about that but I don't know frankly what Mr. Gersten is talking about.

MR. ANDERSON: Your Honor, I think it is very important that you know that because, given the structure that was established by Commissioner Pollack, there are literally hundreds of controversies that have never come to this court; and --

THE COURT: Well, I don't need to know about those controversies of course. I take it all I need to know is why we should put things off.

MR. ANDERSON: Well, the reason we should put things off is because there have been ongoing discussions with respect to this matter for probably two years. There is to be a further meeting on this next week.

THE COURT: I am sure that there are many good reasons and I don't think we ought to take time now to get into them; but I take it that, well, obviously you are very much in favor of having more time set aside for everybody to consider this.

MR. ANDERSON: Yes. Your Honor, if I could make one additional comment.

THE COURT: Yes.

MR. ANDERSON: That the SEC and this intergovernmental committee have pulled a lot of people together; and they have worked out a great number of settlements. These, the latest one was the BCB settlement, and the negotiations on that took months.

Now we have been working on a resolution of the IOS related claims against ICC and ICC claims against IOS related entities within the same firm or framework.

Now, to bring in a new team and a group without all of this background, and a group that is not --

THE COURT: It's not a new team. If the board that management is proposing is elected it will be some of-- all of the old team plus some newcomers.

MR. ANDERSON: Your Honor, if I knew what was going to happen in the future I might or might not have a problem.

THE COURT: Mr. Anderson, if we all knew what was going to happen in the future it wouldn't be any fun.

MR. ANDERSON: And there wouldn't be any problems. But we do think that the structure here has been important, it's been beneficial, and it's been beneficial to the Court. And we think that the structure and the sequence should be maintained and I intend to argue that very strongly to the SEC.

THE COURT: All right. One thing I am sure you will have in mind is that as I have understood the SEC's position with respect to election of a board of directors at ICC, they have been very much in favor it, have pushed it, and have not felt that it was necessary to have Mr. Butowsky's report prior to a meeting of the stockholders to elect a board. You don't need to comment on that. I think I am accurately reporting Mr. Glynn's position. If I am not he will let me know. You were going to say something, Mr. Gersten?

MR. GERSTEN: If it please your Honor, I was going to add, in support of what Mr. Anderson said to which we fully subscribe, the fact that our clients are fiduciaries. They are liquidators appointed by courts, and a question you may well ask that they asked themselves and their courts asked them is why they have not aggressively pressed these claims individually,and they have largely and under an international aegis initiated by the SEC that I wish to emphasize at least our clients place great reliance on,deferred and have exercised forbearance in the pressing of these claims in many courts in many places, because they believe that the SEC believes in a certain orderly sequence of events which would develop facts under which a reasonable settlement could be made which otherwise could not be achieved. Because each of these fiduciaries, if they press their claims, the claims in the aggregate as is known to all the parties in this room would exceed the net worth of ICC by a large amount. They have deferred the bringing of this action because of the order imposed by the SEC and the international committee. For the SEC now in the name of shareholder democracy to exercise a new order of priorities leaves these liquidators and fiduciaries in a terribly exposed and unsupported position,and in that regard we are seeking this court to place great emphasis on what this reliance has meant to our clients and what position you now leave them in without any protection.

In a very quick time they will have to bring actions and race to courthouses, wherever they are, and I think the total effect not just in this ICC matter but any matter involving IOS will be that they will have to look less to cooperative effort led by the SEC and others but will have to look towards their own duty to press whatever claims as quickly as possible wherever they can.

Now the result of this would be the same kind of chaos and disarray which really the SEC properly saw in 1972 could not be the way in which the whole IOS controversy arising out of the Vesco frauds could be resolved.

THE COURT: All right. Well, I certainly am clear that we need more time. I think,Mr. Camhy, the mailing that you plan to make tomorrow you are going to have to put off for a while. What kind of schedule did you propose in light of this discussion, Mr. Camhy?

MR. CAMHY: Your Honor, as I pointed out to the Court last week, if having a meeting is the priority, which is the one that the SEC set on us, and if having it at the earliest possible time is the priority, why then we carefully geared things to have a meeting on October 18th. We could stick with that order, possibly it would be a few days late, October 19th, October 20th, but we could stick with that order if this matter were resolved within no later than seven days from today.

THE COURT: That may be expecting too much.

MR. CAMHY: We might even be able to hold it within ten days. After that, we then get into November, and then you get into the squeeze that we talked about last week, which is that the Butowsky report and special counsel's report will be ready; and if that report and its full impact is not assimilated into the workings of the corporation and its disclosure to stockholders and its neegotiations with IOS, any meeting that you have within a week or two of that report would be in my opinion a disaster.

So you are looking at the situation where either you have a meeting as the schedule that we are trying to maintain in order to accommodate the Commission's desire for an early meeting irrespective of the report, or we would like a meeting in which the report's full impact is assimilated into the affairs of the corporation.

Now one could be held this year. I sincerely doubt whether, assuming the report is received when it's expected in November, that a meeting could be held this year on the record. The meeting would then be held in January or February and as you know the time for the regular meeting is in April, we we are into a fundamental policy question, and that is, first, do we go ahead on the schedule and put stockholder democracy first in which case let us move. There is a proxy statement, there is an assertion by Mr. Butowsky, et cetera.

THE COURT: But the alternatives that are available, if we can't decide today which one we are going to go to --

MR. CAMHY: That's right. Your Honor, I am suggesting that we have approximately ten days from today in order to make that decision given the mechanics of operating a corporation, and given the proxy material. I think beyond that -- is that about right?

MR. BRODSKY: Your Honor, if I may, what's happening now we are going to get a postponement of ten days or something like that, without us knowing whether that is going to be a meeting on -- in October. That puts us, particularly Mr. who does plan to solicit proxies, it puts us in an impossible situation to solicit proxies between the time that he knows there is going to be a meeting and October 18th, and your Honor, we just can't even start to write proxy material in light of the issues which we have raised which are unresolved.

THE COURT: What do you suggest?

MR. BRODSKY: What I am suggesting, your Honor, is that October 18th date be postponement but I think if it's postponed for approximately a month I think we could do that, and Mr. Butowsky has not had his report yet and he's scheduled it for November 15th;but he does not have to deliver his report until the middle of December, and if we did it that way we could have a meeting without Mr. Butowsky's report and I think the middle of November would be a more realistic time.

THE COURT: Well, first of all, let me think out loud for a moment. What I need to have, not necessarily in order of priority, but just as these thoughts occur to me, I need to have somebody tell me or anybody who wants to what they think about Mr. Brodsky's motion. I need answering papers to his motion.

MR. CAMHY: Your Honor, I have served answering papers including a brief.

THE COURT: Let me just finish what I have my mind on what I will need to get. I need somebody to tell me, I guess, principally, well, I guess all of you, what you think of Mr. Anderson's position. Somewhere along the line I want somebody to tell me what we should do about Mr. Maloney and his stock. Those are the things that occur to me right off.

And then finally I will need --we will need to work out what our timetable is going to be for the future in terms of when the stockholders' meeting will be, and Mr. Brodsky's problem of checking proxies and so forth. Is it feasible for us to plan to meet again towards the end of next week and have these things accomplished before?

MR. CAMHY: Your Honor, we are prepared to respond to Mr. Anderson and Mr. Gersten today. We are prepared to respond to Mr. Brodsky today as we already have done. And if there was a prospect of having Mr. Brodsky's motion denied today we would be prepared to move forward today in order to have the meeting.

THE COURT: The difficulty with that is that I don't think I should act on Mr. Brodsky's motion until I know more about what the SEC's position is.

MR. CAMHY: In which case we are available from the very first day that the SEC can be in this court and I suggest that the Anderson-Gersten application or the application by the clients, you know, is really the subject of a separate matter which I am not quibbling about form now, but you think we can get ourselves into problems if it's kind of sandwiched into this. I don't know that it would be too hard --

THE COURT: How about this as a timetable? How about in effect adjourning this session until Thursday of next week, and this to be in the hope that by that time Mr. Anderson will have had time to conduct the discussions he wishes, with the SEC and with everybody else, and the SEC will have had time to make up its mind what position they want to take; and people will have had time to file with me before that date, for example, something about Mr. Brodsky's motion, whether there is law which supports his propositions, or does not support it; and so forth. Is that a feasible timetable?

MR. GLYNN: Your Honor, in view of the fact that I am informed that both Tuesday and Wednesday are holidays next week, that perhaps it would be better to have it Friday morning.

THE COURT: Friday?

MR. GLYNN: Yes, if it would be convenient for the Court.

THE COURT: Yes, Mr. Camhy.

MR. CAMHY: Your Honor, at the risk of being technical may I suggest that Mr. -- it's a suggestion I could be wrong -- that Mr. Anderson and Mr. Gersten prepare a short form notice of motion returnable that Thursday requesting relief of certain kind so that your Honor will have before you application rather than simply their opinions or views or the views of their clients and the facts supporting those views in respect of applications by other people.

THE COURT: I don't know that that's necessary, Mr. Camhy.

MR. CAMHY: Very good, your Honor.

THE COURT: I understand their affidavit to be in effect an application that we adhere to the prior schedule All right, next Friday suits me. 10 o'clock in this room.

MR. GLYNN: Very well, your Honor.

Your Honor, I'd ask that the Court direct that the proxy materials not go out until the Court rules on the matter and the submission.

MR. CAMHY: There is no need for such a direction, your Honor, and I don't want the management to be under a judicial direction about the proxy material.

THE COURT: All right, we understand that nothing will be done at least until next Friday.

MR. CAMHY: That's correct, your Honor.

THE COURT: A week from Friday. All right, gentlemen. Anything else?

MR. GLYNN: Nothing from the Commission. Thank you, your Honor.

MR. CAMHY: Your Honor, may I ask through the offices of the Court to communicate with the Commission to see that we can get the regular comments from Corporate Finance on or about the time that we are here.

THE COURT: I was about to say that I would like to say that I would like to have whatever papers anybody wants to give me no later than next Thursday.

MR. CAMHY: I am not talking about the Commission's substantive comments. We assume that as litigators this would give us some service, an opportunity to read them. What I am thinking about is the Corporate Finance's comments on or proxy material which we cannot release and I wondered if we couldn't importune Mr. Glynn to kind of hurry them up down there so this can all happen at once if it's going to happen.

THE COURT: Well, Mr. Glynn I am sure will do whatever he can do. I would think it would be desirable if you were ready to go with that if you can.

MR. GLYNN: I would say, advise the Court that one of the comments on the proxy material is a matter which will be sub judice before the Court, one of the primary comments.

THE COURT: All right, gentlemen, thank you.

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REPLY AFFIDAVIT OF EDWARD BRODSKY SWORN TO ON SEPTEMBER 15, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, : 72 Civ. 5001 (CES)

- against - : **REPLY AFFIDAVIT**

ROBERT L. VESCO, INTERNATIONAL :
CONTROLS CORP., et al.,
:
Defendants.
:
- x

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

EDWARD BRODSKY, being duly sworn, deposes and says:

I am a member of the firm of Spengler Carlson Gubar Churchill & Brodsky, attorneys for petitioners, Wade S. Malhas, Irving Horowitz, Martin Jacoby, Charles Birbara, Cornelius A. Hubner, Murray Dryer, Phil Birbara, N.E. Burgess and William Zeidman (collectively "Petitioners") in this action. This affidavit is submitted (i) in reply to the affidavit of John Mosler, dated September 6, 1977 on behalf of the Court-appointed Board of Directors ("Mosler Affidavit") and the affidavits of Raoul Gersten and Eugene R. Anderson dated September 6, 1977, and (ii) to set forth new facts evidencing the need for the relief sought by Petitioners.

Mr. Mosler's Affidavit

The thrust of Mr. Mosler's argument is that he and the other Court-appointed directors were elected to their office by the former directors of International Controls Corp. ("ICC") in the normal course of corporate procedure, that they have full authority to conduct the company's business under applicable corporate law and that the acts taken by the present Board - all done without notice to the shareholders of ICC or any of the parties herein and without approval of the Court - were proper. (Mosler Affidavit p. 1-2) His argument is fallacious.

The only reason that each member of the Court-appointed Board holds that position today is this Court's Final Judgment, dated March 16, 1973, directing that a new "interim" Board be appointed satisfactory to the Commission. ICC was compelled by the Final Judgment to replace its existing Board of Directors with the Court-appointed Board, which was specifically designated an "interim" Board. Pursuant to that Final Judgment, the compensation of the Board is an amount allowed by the Court, and Board members are not liable for any actions taken unless proven to be grossly negligent. That is not the way the normal corporation, not under the aegis of the Court, is run.

In addition, if the Board was guiding ICC under Florida law and derived its powers from the charter and by-laws of the corporation as Mr. Mosler suggests, then the Board should have called a shareholders' meeting on the last Thursday of April of each year since 1973 that the Board has been in office, as required by the by-laws. (Article 1, Section 1) Obviously, the Board could not comply with this requirement because this Court's Final Judgment directed that "the board of directors appointed pursuant to this paragraph shall hold office until further order of this Court ..." To argue that the Court-appointed Board has simply been operating under normal corporate law and business practices since 1973 is to support a fiction. The fact of the matter is that the Board was permitted to ignore the by-laws only by reason of the Final Judgment of this Court appointing the Board and maintaining continued supervision over its activities.

Thus, the Court-appointed Board is not a regularly constituted board of directors operating under Florida law, but a Board appointed by and being supervised by this Court. It is axiomatic that the interim Board members should not use their court appointments for personal benefit and should avoid not only impropriety but also the appearance of impropriety. This they have not done.

Moreover, the Court-appointed Board members state in their preliminary proxy material (p. 3) that they own no ICC stock because "they deemed it inappropriate as Court-appointed directors to purchase such stock." Mr. Mosler pointedly fails to respond to this point raised in our affidavit dated September 2, 1977. While the preliminary proxy material does not specify the impropriety, it would appear that it would be "inappropriate" for the Court-appointed directors to purchase stock in ICC because if the price of the stock rose, the Board members would profit improperly as a result of their Court appointments. If this were a regularly constituted Board, it would not only be appropriate for its members to purchase stock in ICC, it would be desirable so that the Board members would have a stake in the company which they are operating. Even the reference in the preliminary material (p. 3) to the "Court-appointed" directors is inconsistent with Mr. Mosler's position that this is a regularly constituted Board.

Mr. Mosler argues that the Court-appointed Board should succeed itself because of certain negotiations and litigation now in process. That is no reason for necessarily continuing these Board members in office. Any Board composed of people elected by the shareholders can decide whether or not the services of this Board or any particular member of it should be called upon in connection with these negotiations. The fact that the present interim directors would no longer be Board members does not mean that they cannot be of aid to a new Board in conducting negotiations, should a new Board seek their advice.

In Petitioners' motion papers we raised the question as to whether or not Loral Corporation, of which Bernard Schwartz (a nominee of the Court-apointed Board) and ICC compete for government defense contracts. The Mosler Affidavit guardedly states, "So far as we know, no competitive conflict of interest exists between ICC and any company with which these nominees are presently associated. Should one occur in the future, I am satisfied that the matter will be handled consistent with the highest ethical standard." That statement is insufficient. The language seems to be carefully drawn to suggest that there is no "competitive" conflict of interest although there may indeed be some other kind of a conflict of interest. Beyond that, Mr. Mosler does not say what investigation has been undertaken by the interim Board to be certain that there is no conflict of interest. Nor does he explain why he cannot make an unqualified statement on this point instead of hedging his position with "So far as we know...." This "disclosure" would be inadequate in proxy material prepared by an ordinary company, and it is bewildering when coming from Court-appointed directors.

Mr. Mosler states that ICC has given shareholders an opportunity to suggest nominees to the Board. He also states that Mr. Burgess, Mr. Sticco and the members of the present Board were the subject of such suggestions received from shareholders and that no suggestions for nominees were received from Dr. Malhas. Mr. Mosler does not say what other names were suggested as prospective Board members nor how the selection process was made. While he does not state so directly, it is apparent from his affidavit that Messrs. Schwartz, M. Gould, Liedtke, and Karp were not suggested by other shareholders.

Mr. Mosler also fails to note that Dr. Mahlas was relying upon a schedule set by this Court whereby it was reasonable to believe that a shareholders' meeting would take place approximately in the middle of December after Special Counsel's report and the report of the Court-appointed Board were prepared and sent to shareholders. He had no way of knowing that the Court-appointed Board was going to meet secretly, decide to perpetuate themselves in office with company funds, increase the board of directors from five to ten, and nominate other people selected entirely by them without notice to anyone and without Court approval.

With regard to Mr. Sticco, who was compelled to resign as a result of the 1973 Court order and is now a nominee of the Court-appointed Board, Mr. Mosler states that "special counsel has advised the Board that his investigation has disclosed no basis for any objection to Mr. Sticco serving on the Board." Having been compelled to resign from the Board, it is not up to the Court-appointed Board or special counsel to determine that Mr. Sticco is fit to serve. That decision should be made after all of the facts are submitted to the Court on notice to Petitioners and all interested parties so that it is the Court rather than the Court-appointed Board which determines the suitability of Mr. Sticco to serve. This is but another example of this Court-appointed Board which should operate under the supervision and protection of the Court taking it upon themselves with no notice to any of the parties in this litigation and without Court approval to take steps to perpetuate themselves and their associates in office and to personally benefit from their Court appointment by making decisions vital to this company in the secrecy of their Board room rather than in the open light of this Courtroom.

Reply to the Position of Certain Claimants

Messrs. Gersten and Anderson, on behalf of certain claimants against ICC, are seeking a postponement of the scheduled October 18, 1977 shareholders' meeting. To the extent that the claimants are suggesting that the Court adhere to the schedule set in its April, 1977 order, we support that position. To the extent that they are suggesting that there be any substantial delay in the proposed December, 1977 shareholders meeting, then we oppose their position. For reasons stated in our prior affidavits on this subject, we think it is time for the company to be returned to the management independent of the Court.

Shareholders' List and Minutes of Meetings of Directors and Executive Committee

Petitioners would like to bring to the Court's attention additional evidence of improper conduct by the Court-appointed

Board based upon a telephone conversation which I had on September 12, 1977 with Sheldon Camhy, counsel for International Controls Corp. ("ICC").

On August 30, 1977, in the course of oral argument before this Court, I requested ICC to turn over to petitioner Malhas a list of shareholders of ICC and the minutes of all meetings of the Court-appointed Board of Directors. Within a few days, Mr. Camhy indicated that he would provide me with a list of directors and copies of minutes of directors' meetings if Dr. Malhas would make a formal request. I arranged for that, and letters making such request were sent to Mr. Camhy.

On September 12, 1977, Mr. Camhy informed me that no list of shareholders would be copied and sent to Dr. Malhas. Instead, he or his representative would be required to go to the offices of ICC and copy the list with a pencil and paper. Mr. Camhy said that he would agree to furnish xerox copies of selected pages.

Mr. Camhy also retracted prior assurances and stated that he would not make copies of the minutes of the Board of Directors' meetings. Instead, he said that Dr. Malhas or his representative would be required to go to the ICC offices to examine the minutes there. It is a very simple matter for ICC to furnish a duplicate copy of its list of shareholders and Board minutes, and I offered on behalf of Dr. Malhas to pay for the expense of duplicating the list and minutes. The only possible reason for ICC withholding such documents is to make it as difficult and expensive as possible for Dr. Malhas to solicit proxies.

Petitioners disclose these acts of the company so that there will be a complete record before this Court of every act known to Petitioners taken by this interim Board inconsistent with their position as fiduciaries appointed by the Court. The interim Board is acting like an incumbent Board fearful of loss of their jobs, rather than as a court-appointed Board attempting to afford all shareholders an opportunity to partake in a shareholder democracy. They are apparently willing to use their current position to secure firm control of the proxy machinery and to prevent access by those representing significant shareholder interests. These should not be the acts of a Court-appointed Board.

For the reason stated herein and in my affidavit dated September 2, 1977 and supplemental affidavit dated September 6, 1977, Petitioners respectfully request the Court to grant the relief requested in all respects.

Edward Brodsky

Edward Brodsky

Subscribed and sworn to before me
this 15th day of September, 1977.

Joanne M Loehner

Notary Public

JOANNE M. LOEHNER
NOTARY PUBLIC, State of New York
No. [illegible]25650
Qualified in Queens County
Certificate filed in New York County
Commission Expires March 30, 1978

United States District Court
Southern District of New York

Securities and Exchange Commission Plaintiff, v. Robert L. Vesco, et al. Defendant.	72 Civ. 5001 (CES) RECOMMENDATIONS OF PLAINTIFF SECURITIES AND EXCHANGE COMMISSION REGARDING ELECTION OF DIRECTORS OF INTERNATIONAL CONTROLS CORP. (September 15, 1977)

The Plaintiff, Securities and Exchange Commission (hereinafter "The Commission") files herewith its Recommendations Regarding Election of Directors of International Controls Corp. (September 15, 1977)(hereinafter "Recommendations re Election"). These Recommendations re Election are filed pursuant to Paragraph 4 of the Final Judgment of Permanent Injunction and Appointment of Special Counsel and Directors (International Controls Corp.) filed March 16, 1973 (hereinafter "Final Judgment") and further pursuant to express invitation of this Honorable Court at a hearing on September 7, 1977.

The background and basis for these Recommendations are set forth in the Attached Affidavit of Gregory C. Glynn, the Final Judgment, the files and records of this entire case including all papers filed in support of, in opposition to and regarding the instant Motion and all hearings held in this case.

Now, therefore, the plaintiff Commission in this action respectfully submits to this Honorable Court the following Recommendations re Election of Directors:

A. Recommendations Regarding Procedure for Electing Directors

1. The election of Directors by the shareholders of International Controls Corp. (hereinafter "ICC")

should be conducted and supervised by a Special Master or a Monitor. This Special Master should be court-appointed as an individual independent of, and unrelated to, existing management of ICC as well as independent of, and unrelated to, the proposed intervenors.

2. The Special Master should prepare a Plan of Election for effecting the transition from court-appointed to elected directors. This plan should be submitted to the Court and to the Commission. Thereafter, the Special Master should solicit directly from the shareholders of ICC written nominations for the position of director of ICC. Upon receipt of nominations, the Special Master shall prepare a list of candidates and their backgrounds. Reasonable discretion should be allowed the Special Master to determine the eligibility of candidates, which discretion would be reviewable by this court for abuse thereof. All defendants named in this action should be ineligible for election as a director.

3. The list of candidates should be sent to all shareholders for informational and voting purposes after appropriate proxy materials are filed with the Commission. The election should be conducted at time and place specified by the Special Master and in accord with the time schedule set forth in Paragraph C (1)-(5) of these Recommendations re Election.

4. The expenses of the Special Master should be borne by ICC, including all expenses for preparation and mailing of proxy materials and costs incurred in preparation for, and conduct of, the election. Reasonable compensation to the Special Master for services rendered in connection with the election should also be paid by ICC.

5. No corporate funds of ICC or its subsidiaries or affiliates should be used for solicitation of proxies or for the purpose of election as a director by any of the candidates.

6. The Special Master shall have reasonable discretion in choosing the mechanics and procedure for conducting the election, including the necessity for run-off elections. Decisions by the Special Master on these points will be reviewable by this Court only for abuse of this discretion.

B. Recommendations Regarding Voting the Vesco Stock

At an election of directors, the 958,843 shares of the common stock of International Controls Corp. formerly owned by Robert L. Vesco and Vesco and Co. and constituting some 24.8% of the outstanding common stock of ICC and now held by Andrew L. Maloney, Esq. as Trustee by Order of the Court, should be counted for purposes of a quorum at the meeting of shareholders but should not be voted on any matters.

C. Recommendations Regarding Schedules for Report and Election

1. The Report of Special Counsel, David M. Butowsky, Esq. should be ordered filed not later than November 5, 1977, as previously ordered.

2. Thereafter, but not later than December 31, 1977, an Application should be presented to the Court for approval of a Plan of Settlement of Dollar Fund claims against ICC, or in the alternative, a Statement that such settlement appears not to be feasible.

3. Financial Statements of ICC should be prepared by independent auditors for the calendar year 1977 such statements to be completed not later than March 1, 1977 or 60 days after the approval by Court of the Plan of Settlement, whichever occurs later. If no Plan of Settlement is approved, the financials should be prepared by March 1, 1977.

4. Proxy materials should be prepared and filed by the Special Master not later than March 15, 1977. The proxy materials should be mailed to all shareholders of record on March 1, 1977 by not later than April 1, 1977.

5. The Annual Meeting of Shareholders of ICC should be held on April 25, 1978, being the last Tuesday of April 1978, as specified by Section 2 of Article 1 of the By-Laws of ICC. The meeting should be conducted and supervised by the Special Master in accordance with the provisions of Paragraphs A (1)-(6) of these Recommendations re Election.

It is respectfully requested that the Court adopt the foregoing Recommendations re Election of the Plaintiff Commission.

Respectfully submitted,

Dated at Washington, D.C.
this 15th day of September, 1977.

Gregory C. Glynn

Gregory C. Glynn
Assistant Chief Trial Attorney

Lester Green
Special Counsel

Frederic M. Krieger
Trial Attorney

Attorneys for Plaintiff
Securities and Exchange Commissio
500 North Capitol Street
Washington, D.C. 20549

William D. Moran
Regional Administrator

Marvin E. Jacob
Associate Regional Administrator
Securities and Exchange Commission

New York Regional Office
26 Federal Plaza
New York, New York 10007

AFFIDAVIT OF GREGORY C. GLYNN

United States District Court
Southern District of New York

Securities and Exchange Commission Plaintiff, v. Robert L. Vesco, et al. Defendant.	:	72 Civ. 5001 (CES AFFADIVIT OF GREGORY C. GLYNN

City of Washington)
) ss:
District of Columbia)

Gregory C. Glynn, being duly sworn deposes and says:

1. I am an attorney on the Staff of the plaintiff Securities and Exchange Commission (hereinafter "The Commission") and since March 1975 I have had primary responsibility for the litigation known as Securities and Exchange Commission v. Robert L. Vesco, et al., 72 Civ. 5001 (CES). I am generally familiar with the files and records of this case and make this Affidavit based upon a reading of the pleadings filed and hearings attended in this case.

2. On March 8, 1977 the Commission filed with this Court certain "Recommendations of Plaintiff Securities and Exchange Commission Regarding Motion for Intervention and for a Meeting of Shareholders." On April 19, 1977, this Court issued an Order regarding a schedule for the filing of reports and conduction of an election. On or about the 22nd day of August, 1977 International Controls Corp. (hereinafter "ICC") filed proxy materials with the Commission setting an election date for October 18, 1977 and a record date of August 31, 1977.

3. Thereafter on August 30, 1977 certain proposed intervenors as shareholders of ICC brought on an Order to Show Cause as to why the

record date and election date should not be altered. This motion was denied after hearing.

4. On September 2, 1977, the proposed intervenors noticed a Motion for September 7, 1977 seeking an Order regarding certain aspects of the proposed election of directors of ICC. Papers were filed in opposition to this motion by incumbent management of ICC and regarding this motion by certain of the IOS Dollar Funds. At the hearing on September 7, 1977, this Court requested the Commission to furnish the Court with recommendations regarding the subjects addressed by the proposed intervenors, ICC and the Dollar Funds at the September 7, 1977 hearing.

Now, therefore, the plaintiff Commission in this action respectfully submits to this Honorable Court the Recommendations Regarding Election of Directors being filed concurrently with this Affidavit and attached hereto.

It is respectfully requested that the Court adopt the foregoing Recommendations re Election of the Plaintiff Commission.

Gregory C. Glynn
Gregory C. Glynn

Subscribed and sworn to
before me this 15th day
of September, 1977.

Christine Delaney
Notary Public, D.C.

My Commission Expires Dec. 14, 1978

TRANSCRIPT OF HEARING DATED SEPTEMBER 16, 1977

U.S. DISTRICT COURT
FILED
DEC 14 1977
S.D. OF N.Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES and EXCHANGE COMMISSION,

Plaintiff,

vs. : 72 Civ. 5001

ROBERT VESCO, et al.,

Defendants.

-------------------------------------x

Before:

HON. CHARLES E. STEWART,

District Judge.

New York, September 16, 1977,
10:15 a.m.

APPEARANCES:

GREGORY GLYNN, ESQ.,
Attorney for SEC

DAVID BUTOWSKY, ESQ.,
Attorney for ICC

RAOUL GERSTEN, ESQ.,
Attorney for Venture Fund

EUGENE ANDERSON, ES Q.,
Attorney for IIT and Internation Investors Trust

EDWIN BRODSKY, ESQ.,
Attorney for all petitioners

SHELDON CAMHY, ESQ.,
Attorney for International Control Corp.

ROBERT P. WALTON, ESQ.,
Attorney for Andrew Maloney

THE COURT: Good morning.

MR. CAMHY: I have a calendar application, your Honor.

THE COURT: Yes, Mr. Camhy.

MR. CAMHY: We received the papers at the SEC that morning, we received the papers in Mr. Brodsky's office yesterday at approximately 4 o'clock. The content of the papers from the Securities and Exchange Commission are of the utmost significance, contains matters of extreme substance. They affect both when the meeting will be held and the circumstances under which it will be conducted.

In particular, the circumstances under which it will be conducted contain a whole new set of mechanics and concepts which have not been introduced into the case before.

The board of directors of the company that I represent hasn't even even been informed of the content of the Security and Exchange Commission papers, and as a lawyer I can see where it presents questions of novelty and importance both as to this case and perhaps many other cases. It raises questions under Title 28, it raises questions under the securities laws.

THE COURT: Title 28?

MR. CAMHY: The Judicial Code. Powers or jurisdiction, and the powers of the court.

THE COURT: What specifically?

MR. CAMHY: The appointment of a special master to conduct stockholders meetings in companies under this situation that this company is in, as distinguished from companies whose property is subject to receivership.

THE COURT: Mr. Camhy, it seems to me if I can appoint a board of directors, I can appoint a special master.

MR. CAMHY: Your Honor, this is not perhaps the time for me to quarrel with that because I don't know that I am authorized to do so. And the reason --

THE COURT: In other words, you want some time?

MR. CAMHY: Yes, your Honor. I would like until Next Friday. There will be a board meeting on Tuesday. I think the reasons advanced for postponing the stockholders meeting are reasons which the board must take very seriously, because the IOS negotiations are critical to the success and survival of the company and to what's goign on.

THE COURT: I am sympathetic to your request up to a point. I'd like to know what the board thinks of these recommendations. On the other hand, it seems clear to me that if I grant your application, that we are going to have to postpone the present schedule.

MR. CAMHY: Yes, your Honor.

THE COURT: And, indeed, I think probably even if I don't grant your application that we are getting too close to that timetable now.

MR. CAMHY: Your Honor, there is no question about it. I want to point out that the seriousness of what's been brought out by Mr. Anderson and Mr. Gersten is not lost on the board, that even if they weren't entitled to relief from this court, the things that are within their own power in terms of institution of litigation against the company in plenary suits that they would bring, which is sufficient to give the board very serious pause in this meeting.

So there is no question but that the board agrees that the meeting cannot go on as scheduled, and the question is under what circumstances will it go on and when will it go on.

I doubt whether there will be much disposition to quarrel with the underlying position taken by the

Commission that the IOS negotiations come first, as being the most important thing to this company. But the board should formally rule on that.

And, secondly, it should have an opportunity to instruct me as to their position on the mechanics of how the election should be held.

THE COURT: All right.

Do you want to respond to that, Mr. Glynn?

MR. GLYNN: Yes, your Honor. I have no problem with putting a consideration off and letting the board take a position and file papers. I just mechanically cannot do it next Friday, which is the 23rd, the reason being I am in the Central District of California,in litigation out there. The following week, the week of the 26th, I am available, and I suggest to the court Thursday or Friday of that week.

MR. CAMHY: No objection.

MR. BRODSKY: I have no objection to a short adjournment. As a matter of fact, I wouldn't mind putting in papers with regard to the SEC's proposal myself. I'd just like to do it as soon as possible, that's all.

THE COURT: All right. We have a new face here, Mr. Walton.

MR. WALTON: Yes, your Honor.

THE COURT: I don't know whether you want to express any views on this.

MR. WALTON: I do not, your Honor. I feel somewhat in the position of an interested observer. I obviously do whatever your Honor directs.

THE COURT: I think at some point, Mr. Walton, I'd be interested to know, not necessarily this morning, what your view is on the various proposals that have been made as to how Mr. Maloney ought to deal with the stock which he is holding at the election. Should it be not voted? Should it be voted as present but not voted in favor of any of the candidates? Should it be voted in favor of some of the candidates?

At some point perhaps you'd like to let me know what Mr. Maloney's views are on that.

MR. WALTON: Very well, your Honor.

THE COURT: I think putting this off for a few days makes a lot of sense. Perhaps I might let you know what I am thinking about very, very tentatively.

Like all the rest of you, I just received the Commission's proposal. First, as I have already indicated, it does seem to me that we can't continue on the present schedule, even if we all wanted to do so. We are getting close to the April date when an election is required.

It would seem to make, at least superficially to me, it seems to make sense not to hold an election in December or January and do it all over again in April.

I am, at least in a preliminary way, impressed with the notion of appointing a special master, or Mr. Glynn used the word "monitor." I don't know whether there is any difference.

I think also it is important for all of us to know what the board, the present board, thinks about this. They have been running the company for four years, they are close to the situation, closer than anybody else; and in that respect, incidentally, at the present time anyway, I have no reason to doubt their good faith. So far as I can tell, everything they have done, including what Mr. Brodsky refers to as a secret meeting, which sounds, Mr. Brodsky, a little bit like Jack Anderson -- I don't suppose there was really anything secret about that meeting.

So far as I can tell, they are acting in good faith and their best judgment as to what is good for the companies and the stockholders.

On the other hand, it does seem to me that their timing was a little unfortunate. As I think I have indicated before, since I have a lot of ultimate responsibility here, I would have appreciated some advance notice about what they were planning to do. I think I already told you that, Mr. Camhy.

So, in a nutshell, I tend to think that the Commission's proposal is a very useful one and a feasible one. I have a few thoughts about it, and I hesitate to be very specific because I haven't given it much thought and I haven't had the benefit of the views of any of you, but for what they are worth I will throw them out.

In paragraph (a), the first sentence, Mr. Glynn talks about preparing a plan of election for effecting the transition from court-appointed to elected directors. I would suppose that the special master, if that is what we come to, should consider whether or not the new board should have 10 members or five members or 15 members or how many members. That language perhaps is broad if you have to include that notion, but I would want you all to consider that as a possibility.

Also, it seems to me that, Mr. Glynn, I'm not sure of that, it might be that you have been a little too specific in outlining what the special master should do. I think the special master should have a lot of discretion. It's hard for us to sit down now and decide that these are the things he should do and these are the things he should not do.

I also think that the proposal should contemplate more specifically than it does now, or more plainly than it does now, perhaps -- and this perhaps is implicit in the whole notion, but I don't think it would do any harm to spell it out -- that everything he does is subject to my approval. I don't mean to suggest by that that I would want him to come to me every time he turns around. On the contrary, I would want him to have a lot of discretion, but I would want all of it subject to my approval.

One point, which is really a detail which brought this to my mind, was the paragraph on his compensation. I have already mentioned that I am concerned about how Mr. Maloney should deal with the stock that he has charge of. I am puzzled as to what to do about the proposal which involves putting a deadline on settlement with the dollar funds. I just wonder whether that puts too much pressure on the company and puts Mr. Anderson's people in too good a negotiating position. I don't know. The people that are involved in that have a better deal for that than I do. I just am puzzled.

I think it's highly desirable that if a settlement can be worked out, that it be done promptly. I don't want the court to impose on the negotiators, however, any condition or restriction or timetable which would prejudice one side or the other, and I'm sure that nobody else does.

Although I have said that I am taken with the idea, that doesn't mean that I'm not open to other suggestions, but at least at first blush I think it sounds like a useful way of proceeding.

Two or three other things before we finally get to the timetable.

On the motion to intervene, the order that I entered in April says that anybody who is going to object to the motion -- and I think it is related to the depositions or discovery which was contemplated -- objection should be filed no later than September 30th. I understand thae no depositions or discovery has in fact been conducted.

Am I right on that?

MR. BRODSKY: That's correct, your Honor.

THE COURT: I take it that that means that the Commission is satisfied that they don't need to take any, is that right?

MR. GLYNN: That is not true, your Honor. It's been a scheduling problem. In fact, Mr. Brodsky and I discussed this last night.

THE COURT: What have you worked out?

MR.GLYNN: We haven't. I suspect we can do it in the next week or two.

THE COURT: As I recall, your principal concern, and of course a legitimate concern, is whetehr or not any of these people are working for Vesco or his crew.

MR. GLYNN: That's correct, your Honor.

THE COURT: I would suppose that that is something that at least is susceptible of reaching a conclusion on fairly promptly. I don't know, maybe it isn't that easy, but perhaps that answered my question. I was going to suggest that the motion to intervene ought to be granted, to give Mr. Brodsky at least some official status. He has all the unofficial status he needs.

If the two of you have worked something out and Mr. Brodsky is content to let the motion continue as it is, that's all right with me.

MR. BRODSKY: Well, your Honor, I really have never been content in that sense to let the motion continue as is. I am really concerned about my status. A lot of time has gone by. I know the Commission has done a lot of investigating.

I don't know about my own clients in this matter, but I don't belkieve as we stand here now that they have a shred of evidence that links any of my clients to Mr. Vesco, and I would suggest that my motion be granted, subject always to a further order of the court if they find some evidence of a connection between any of my clients and Mr. Vesco.

THE COURT: That might be a way to do it, Mr. Glynn. We would be able to observe pretty closely what Mr. Brodsky and his clients are doing and if we have any reason to believe that they are not behaving properly we can always take care of it.

MR. GLYNN: I understand that, your Honor. The Commission has no objection to the limited intervention, as we set forth early in our papers, for the purpose of discussing and bringing about the election.

We just didn't want a broad, general intervention in the election.

ICC itself may have an interest in taking the deposition, I don't want to speak for them, either Mr. Butowsky or Mr. Camhy.

MR. BRODSKY: Intervention does become important with respect to something that happened while we were in the case. As I understand it, there was an application at one point by Mr. Butowsky for him to extend that August 15th date, which your Honor directed him to file his report by, to some time in November. I was never given notice of that. If I would have had notice of it, I would have had some views on the subject, and I wasn't given notice because I am not technically in the case.

I think it's beneficial to me and the court if I am in the case.

THE COURT: I think it was my fault that you didn't get notice. There was a strong possibility that has become a reality that is reported, something to do with postponing the timetable.

MR. BRODSKY: If I was in the case, I would have in the ordinary course gotten notice of it.

THE COURT: Let's do nothing on the motion to intervene at the moment, but everybody should have the clear understanding that you get served with papers which have anything to do with the matters which are before us. If you want to -- perhaps at our next meeting we ought to consider this again and see where we are. I don't know whether Mr. Camhy or Mr. Butowsky wish to depose any of your people. They may wish to do so.

MR. CAMHY: We certainly do.

MR. GLYNN: I have no objection to putting Mr. Brodsky on the master service list and seeing that he gets all documents that come out of the Commission.

THE COURT: And Mr. Camhy and everybody else will do the same. I am directing now that my previous order for -- have I entered an order that the election will be held on October 18th? Do I have to do anything to cancel that?

MR. CAMHY: Your Honor, the company has represented to you that the meeting will not be held until further order of the court, and that representation was given in open court.

THE COURT: Something has been sent to stockholders?

MR. CAMHY: Yes. It has been announced publicly that the meeting has been postponed and what will happen is, there will be another announcement today that the postponement is indefinite until further order of the court.

THE COURT: Mr. Glynn, were you going to say something?

MR. GLYNN: No, your Honor, that is agreeable.

THE COURT: Mr. Brodsky complains to me, Mr. Camhy, that you won't give him a list of stockholders except if he came in and copied it down with a paper and pencil, and that you would not give him minutes of the directors meeting.

MR. CAMHY: It's been our position that if there was going to be a stockholders meeting, the pressures of time were such that there was no real basis for withholding a physical list. When it became clear that the meeting was off, we then looked at the Florida law and of the situation in this case, in which we have not taken the depositions yet. Very particularly, your Honor, there have been people, very specific people, who have informed brokers and others that they held very large blocks of stock, that they were the directing forces behind this movement of Dr. Malhaus, that they had the power of this company in their hands, and that their stock -- and there have been others who have claimed that they are loosely connected with it and that their stock is for sale. Of these groups both are known people who trade in the stock and neither of them are formally disclosed in anything Dr. Malhaus has filed. That being the case, we were very concerned about turning over a stockholders list in the physical sense that it could be copied and circulated because we have had this said, and now when the SEC announced that they had taken this position, we realized that the whole elective process may turn out to be a fully controlled thing under the control of the court, and we feel that this stockholders list ought to be part of what that process is.

If there is a special master controlling the election, presumably he will control the stockholders list too. For that reason we suspended even the inspection when we heard what the SEC had decided.

As to the minutes, we have no objection to looking at minutes, but the minutes do contain many, many things about the internal workings of the company which we would not want reproduced and circulated all over the place.

We have no objection to people coming in and reading the minutes, asking for specific extracts, and if we find that there is an extract that is extensive, then we can ask for protection on it. These minutes do contain some discussion with the IOS negotiations, they do contain some discussion with the company's position on various matters relating to Mr. Vesco and his stock, and it was not our desire to see the minutes fully reproduced so that they could be circulated around anywhere.

THE COURT: Mr. Brodsky, in light of the fact that our timetable has been put off for quite a while, do you need the stockholders list immediately?

MR. BRODSKY: I think I do, your Honor. First of all, let me respond to Mr. Camhy's charge. He doesn't mention the name of a person, he talks about some kind of innuendo here, and I think it ought to be completely stricken from this record.

THE COURT: Mr. Brodsky, I can't agree with you on that. We all know the history of this company, and perhaps it's a new company totally today but I'm not sure.

MR. BRODSKY: Your Honor, all I am saying is that if Mr. Camhy has evidence that any of my clients did anything which violated any SEC rule or regulation or any other law, he ought to put it in an affidavit or bring it forth some way to this court. He's been saying things like that to me --

THE COURT: I think perhaps he might have to do that eventually if I persist in his point of view, which I take it he is not likely to because he's conditioned it on the probable change of procedures here. All I am asking you is, do you need the stockholders list today, rather than two or three weeks from today?

MR. BRODSKY: The answer is yes, your Honor. Dr. Malhaus has filed a 14(b) with the Commission and he wants to look at the list and he wants to contact shareholders, and he has a right to do that, your Honor. If he were running a company privately held, he'd have the right to do that.

I don't think I should be required to go there with a pencil and paper and copy every name and address.

THE COURT: We don't have a company like the one you described.

MR. BRODSKY: As I understand it, your Honor -- and I won't talk about innuendoes as Mr. Camhy does --

as I understand it, Mr. Shinn has spent company money to go and see somebody on the West Coast who is a broker and maybe a large shareholder and solicit him to vote his stock for the court-appointed board.

THE COURT: You are not really being responsive to the question. Why do you need it now rather than two or three weeks from now?

MR. BRODSKY: Because I'd like to start soliciting as soon as possible, your Honor. I don't know when the meeting is going to be. We think April is too late. We have been asking for a meeting now for two years and there's been no meeting for four years. We are going to try and persuade you that we should have the meeting earlier. The company has the list and has been using the list, as we understand it. Why should they, as court-appointed officer, have any advantage over us?

THE COURT: I don't think they should.

MR. BRODSKY: We have one today, your Honor. If they have the list, I have to have the list.

What in the world could I do with a shareholders list?

MR. CAMHY: Your Honor, I think the list and the quarrel over it relates to the depositions. We noticed depositions of Mr. Brodsky's clients for August. They were adjourned at his convenience. Had we been able to take the depositions, I think we would have resolved these very grave doubts that we have based on hearsay information that we received.

I am reluctant to name names in this court but there are two very specific names, and I'm sure Mr. Brodsky knows who they are. I would like to ask Dr. Malhaus what he has to do with these people --

THE COURT: All right.

Mr. Glynn, how do you feel about this?

MR. CAMHY: These people, by the way, are known to the Commission.

MR. GLYNN: Your Honor, I can see no harm in holding the shareholders list back for two weeks. I think ultimately Mr. Brodsky will get it. I'd like to see the depositions being taken because there's been some concern about some recent trading in the ICC.

THE COURT: I think, Mr. Brodsky, what I will do, what I propose is this: that the present stiuation with respect to the list of stockholders remain as it is until our next meeting. But in the meantime, I want you to instruct the board, Mr. Camhy, that they are not to do anything by way of soliciting proxies.

MR. CAMHY: I will so do, your Honor.

MR. BRODSKY: Your Honor, may I talk for a minute about the minutes of the meeting?

THE COURT: The minutes, it seems to me, are in a somewhat different category. I think a stockholder ought to have access to them. I can understand Mr. Camhy's point that the minutes may contain information about the negotiations, which ought to remain in your interests, as well as in -- well, in your interests.

MR. BRODSKY: I have no problem with that, your Honor.

I represented to Mr. Camhy in a letter -- at least Dr. Malhaus did -- that the only people who'd see those minutes are myself, Mr. Underweiser and members of my firm, Nobody else. I repeat that representation in this court. It's a matter of making it more expensive for a client, your Honor.

I don't see why, with my representation in that regard -- and those minutes will stay in my office, your Honor -- why we can't see those minutes in my office with that representation. I am trying to save a fee --

THE COURT: What's wrong with that, Mr. Camhy?

MR. CAMHY: The problem is only a desire not to have a proliferation of copies. Those minutes stand right now--one copy was made just for this purpose--they stand right on a shelf on my desk. I have no objection to their coming in and looking at them, but we want to know which, if any, pages have been copied because we want to stop the copying, if we can, by an application to the court. We consider it sensitive.

I don't know why it's such a problem for somebody to come --

THE COURT: Would one copy satisfy you for the moment, Mr. Brodsky?

MR. BRODSKY: Yes, indeed.

MR. CAMHY: The problem is where, your Honor. If they are in my office and somebody comes in --

THE COURT: No, I think Mr. Brodsky can have a copy to take to his own office on the understanding that it would be available to him and Mr. Underweiser and people in their office and to nobody else, including their clients, and that no copies will be made.

I think, Mr. Camhy, if there are particular minutes or portions of particular minutes which are sensitive in the sense that they would interfere -- that their publication would interfere with the negotiations with IOS or with the internal operations of the company, I think you ought to indicate that to Mr. Brodsky so that Mr. Brodsky will treat all of them with special care, but he will treat those with special, special care.

Mr. Glynn, is this all right with you?

MR. GLYNN: That is fine, your Honor.

THE COURT: You said the end of two weeks from today is what you are talking about, Mr. Glynn. Do you need all that time?

MR. GLYNN: No, your Honor. It's just a mechanical problem. I will be back from California probably that Friday, the 23rd. I would suggest Tuesday, because I have an important meeting in Washington for Monday. But I can do it Monday afternoon.

There are a couple of things that I ought to bring to the court's attention. One of the things that the special master will have to consider, should he be appointed, and that is of concern to the Commission, is the voting of certain other stock, other than Mr. Vesco's.

I think the record shows that some 28,000 shares are currently owned by Mr. Richard Clay. He was enjoined by the court back in '73 and it is the Commission's position that those shares should not be voted, or shares held by other nominees or associates fo Mr. Vesco. That will have to be addressed by the special master.

The only thing I wanted to say to the court is that this was a very preliminary and tentative recommendation, and certainly nothing was meant to suggest that the court not maintain close supervision over the special master and should approve his compensation.

THE COURT: I appreciate that, Mr. Glynn. I know this must have been produced on a very expedited basis, and it is perfectly obvious to me from reading the report that that is so.

It is also perfectly obvious to me that the people in the Commission have done a tremendous job in coming so far as they have.

MR. DRYER: May I be heard, your Honor.

THE COURT: Just a moment, please.

How about Wednesday, September 28th? Will that suit everybody?

MR. GLYNN: At 10 o'clock?

THE COURT: Yes.

MR. BUTOWSKY: Yes, your Honor.

THE COURT: Mr. Camhy and Mr. Brodsky?

MR. BRODSKY: Yes, your Honor.

MR. CAMHY: Yes, your Honor.

THE COURT: Everybody that wants to be here, be here Wednesday, September 28th, at 10 o'clock in this courtroom.

MR. DRYER: I just wanted to say something, your Honor.

MR. BRODSKY: Mr. Dryer is one of the petitioners that I represent.

MR. DRYER: I have written to your Honor many times and I have gotten letters back.

It's been five years now that I own stock in this company and it's got to the point where I think I am the only stockholder in the room. I have watched people who don't have any stock take time longer and longer and longer, and it seems that there is no end to postponements.

We'd like to see our company in our own hands with our directors voted upon. We'd like to have our meetings and make our own decisions.

We appreciate the fact that it's taken four years and now we are going into 1978. I am sure by 1978 we will still be going further to the end of 1978.

It seems that the present board of directors is not reckoning with people like myself, who are small people, who need help and who would like to participate in the company.

THE COURT: Thank you, Mr. Dryer. I appreciate your thoughts. I am satisfied that everybody in this room has the same objectives as you do. We all want this company restored to its stockholders as soon as that can possibly be done without prejudicing the interests of the stockholders. We are all working towards the same end that you are. We want to accomplish what you want to accomplish.

I can assure you that we are all going to try to get the jobs done as quickly as we can.

MR. DRYER: I appreciate that, your Honor.

THE COURT: All right, gentlemen. Wednesday, September 28th, at 10 o'clock.

We have an unfortunate practice, which is unavoidable, of submitting papers the night before. I'd like it if everybody can see to it to have papers to anybody else who should have papers by Monday night.

Is that going to give you enough time, Mr. Glynn?

MR. GLYNN: I don't know that we will be submitting papers but that will be enough time, your Honor.

THE COURT: Obviously, if anybody can't make this tight timetable, I'm, not going to ignore your papers if they come in a day late. Thank you very much.

(Adjourned to September 28, 1977, at 10:00 a.m.)

JOINT AFFIDAVIT OF EUGENE ANDERSON AND RAOUL GERSTEN SWORN TO ON SEPTEMBER 21, 1977

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION, : 72 Civ. 5001 (CES)

Plaintiff, : JOINT FURTHER AFFIDAVIT WITH RESPECT TO THE

\-against- : SEQUENCE OF INTERNATIONAL CONTROLS CORP.

ROBERT L. VESCO, et al., : STOCKHOLDERS MEETING AND SPECIAL COUNSEL'S

Defendants. : REPORT

- x

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

EUGENE R. ANDERSON and RAOUL GERSTEN, being duly sworn, depose and say:

1. Eugene R. Anderson is a member of the firm of Anderson Russell Kill and Olick, P.C., attorneys for the defendant, IIT, an International Investment Trust ("IIT") and Georges Baden, Jacques Delvaux and Ernest Lecuit as Liquidators of IIT ("Liquidators"). On April 4, 1974, IIT entered into a Final Consent Order which, inter alia, recognized the right of the Liquidators to act on behalf of IIT.

2. Raoul Gersten is a member of the firm of Forsyth, Decker, Murray & Hubbard, which is counsel to Jacob A. Schiltkamp and Cornelius G. Hartog, appointed by the Court of Curacao as liquidators of Venture Fund (International), N.V. ("Venture").

3. Under date of September 15, 1977 the Securities and Exchange Commission filed "Recommendations of Plaintiff Securities and Exchange Commission Regarding Election of Directors of International Controls Corp.". These Recommendations

envision a sequence of events as follows: First, report of Special Counsel; second, a period to negotiate and finalize a settlement with IOS and the Dollar Funds; and third, a stockholders meeting of ICC. This sequence is acceptable to IIT, Venture and, we believe, IOS and the other Dollar Funds.

4. Solely to insure that there will be no misunderstanding in the future, the Court's attention is respectfully called to the March 8, 1977 "Recommendations of Plaintiff Securities and Exchange Commission Regarding Motion for Intervention and for a Meeting of Shareholders". A copy of the March 8 Recommendations is annexed to this affidavit for the convenience of the Court and counsel.

5. Paragraph 7 of the March 8, 1977 SEC Recommendation provides as follows:

> "7. The Court should retain jurisdiction over ICC for the purpose of ensuring compliance with all provisions of the Final Judgment and for the further purpose of preventing any reentry into the Company by any of the defendants in this action and of ensuring that the assets of ICC are not dissipated and are not sold, transferred, exchanged, pledged, hypothecated or otherwise conveyed or subjected to lien in fraud of any creditors of ICC including any claimants or investors of the IOS Dollar Funds." (emphasis added)

It is our understanding that the Commission will adhere to this recommendation in the event that no settlement is reached with IOS and the Dollar Funds under the time schedule suggested by the Commission in its September 15, 1977 Recommendations.

6. At the September 16, 1977 hearing on this matter the Court expressed its preliminary reaction to the September 15 SEC Recommendations indicating, among other things, that the suggested December 31, 1977 deadline for the completion of the negotiations among ICC, IOS and the Dollar Funds might somehow impose an unfair burden or negotiating disadvantage upon ICC.

As negotiators for IIT and Venture, the two Dollar Funds most concerned about a settlement with ICC, our reaction was exactly the opposi[illegible] We felt that the December 31 deadline placed our clients at a disadvantage. We hasten to add, however, that in the interests of arriving at an expeditious settlement, we are willing to adhere to the schedule suggested by the SEC and offer this insight into our reaction to the schedule solely for the purpose of allaying any fears the Court might have with respect to the possible unfairness to ICC of the proposed time schedule.

Eugene R. Anderson

Eugene R. Anderson

Raoul Gersten

Raoul Gersten

Sworn to before me this
21st of September, 1977.

Leona Moss
Notary Public
LEONA MOSS
NOTARY PUBLIC, State of New York
No. 41-3059140
Qualified in Queens County
Commission Expires March 30, 1978

TO:

GREGORY GLYNN, ESQ.
Securities and Exchange Commission
500 North Capitol Street
Washington, D.C.

MARVIN JACOB, ESQ.
Securities and Exchange Commission
26 Federal Plaza
New York, New York 10007

SHELDON CAMHY, ESQ.
Shea Gould Climenko Kramer
& Casey
330 Madison Avenue
New York, New York 10017

DAVID M. BUTOWSKY, ESQ.
Gordon Hurwitz Butowsky Baker
Weitzen & Shalov
299 Park Avenue - 5th Floor
New York, New York 10017

EDWARD BRODSKY, ESQ., for
Intervenors
Spengler Carlson Gubar Churchill
& Brodsky
280 Park Avenue
New York, New York 10017

POSITION, RECOMMENDATIONS AND REQUESTS OF BOARD OF DIRECTORS OF INTERNATIONAL CONTROLS CORP.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- -x

SECURITIES AND EXCHANGE COMMISSION, : 72 Civ. 5001 (CES)

Plaintiff, : POSITION, RECOMMENDATIONS AND REQUESTS OF THE BOARD OF DIRECTORS OF INTERNATIONAL CONTROLS CORP.

-against- :

ROBERT L. VESCO, et al., :

Defendants. :

- -x

ALLEN M. SHINN, being duly sworn, deposes and says:

I am President, Chief Executive Officer and a director of International Controls Corp. ("ICC"). Following receipt by counsel to ICC of the recommendations of plaintiff, Securities and Exchange Commission (the "Commission"), dated September 15, 1977, copies were delivered to the Board of Directors of ICC and considered by them. At a special meeting of the Board held on September 20, 1977, the Board instructed me and ICC's counsel to inform this honorable Court of ICC's position, recommendations and requests with respect to this matter.

ICC's position, recommendations and requests are as follows:

1. Date of Annual Meeting.

The statements made to this Court in writing by representatives of certain of the IOS Dollar Funds have warned that if a stockholders meeting were to go forward at this time, it would adversely affect the negotiations now pending with the Dollar Funds. Whether or not the Dollar Funds have standing in the present case to seek a delay of the meeting, they certainly have the power to refuse to conduct further negotiations along the lines which have been proceeding constructively to date and to institute litigation on their underlying claims. The Court will recall that the Board has consistently stated that the existence of these claims and the pendency of the negotiations are of utmost importance to ICC.* Under the circumstances, we concur with the Commission's recommendation that the stockholders meeting not be held until April 25, 1978, which should permit adequate time to give the negotiations with the Dollar Funds a fair opportunity to produce a settlement which is consistent with the best interests of ICC.

2. Special Counsel's Report and the Boards Report.

The Board concurs with recommendation C-1 of the Commission. The Board has already prepared a report dated August 18, 1977 in compliance with the order of this Court dated April 18, 1977. It is our intention to distribute that report and to supplement it if necessary after receiving and reviewing Special Counsel's Report.

3. Dates for Plan of Settlement.

Recommendation C-2 of the Commission states that on or before December 31, 1977, ICC should make an application to the Court for approval of a Plan of Settlement of IOS related claims against ICC, or make a statement to the Court that such settlement appears not to be feasible. ICC opposes this recommendation. Insofar as the Commission's recommendation suggests that the Dollar Fund claims should be settled "if at all" on or before December 31, 1977, it imposes an unnecessary and perhaps prejudicial burden on the Board of Directors. This Court has our assurance that we are proceeding with the settlement negotiations in the best of faith and exercising all reasonable efforts to reach a settlement. The Board has no objection to reporting to the Court on or before December 31, 1977, on the status of the negotiations. However, we would be most reluctant to report on specific offers and proposals, and request that the Court give us discretion to withhold such data in any report to the Court if we deem it prejudical to the interests of ICC.

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*We initially sought to delay a stockholders meeting until we had a full opportunity to negotiate these claims and resolve the matter.

4. Financial Statements of ICC.

The Commission's recommendation that ICC's financial statements be prepared by certain dates is, in the Board's view, wholly unrealistic. As a practical matter, the auditors exercise every effort to complete their audit of ICC's financial statements as soon as possible following the close of the fiscal year. The auditors' schedules are based on the most efficient and economical use of personnel and time. To attempt to impose deadlines such as those in the Commission's Recommendations would simply cause the auditors to take the engagement out of the auditing firm's regular work procedures and work schedules and place it on a special status which would result in substantial additional auditing expenses to ICC. The Board expects that, in the usual course, the auditors' work will be completed and the financial statements will be ready on or before March 31, 1978. The Board will inform the auditors of the Commission's desire that their work be completed as soon prior to that date as possible. If their work is completed by March 31, 1978, there will be sufficient time to have a stockholders meeting on April 25, 1978. The proxy statement and proofs of the text of the Annual Report will be prepared, as usual, in the weeks preceding March 31, 1978, so that the meeting can go forward on schedule.

5. Conduct of the Stockholders Meeting.

The Board concurs with the Commission's recommendation that the meeting should be the "Annual Meeting" held on April 25, 1978, being the last Tuesday of April, 1978, as specified by

Section 2 of Article I of the By-Laws. However, the Board recommends that the meeting be conducted pursuant to and in accordance with this Court's order, rather than in accordance with the provisions of Paragraphs A(1)-(6) of the Commission's Recommendations.

The Board neither objects to, nor supports the appointment of a Special Master. However, if a Special Master is to be appointed, the Board urgently requests that his functions be limited to those specified by this Court and that the criteria for the exercise of those functions be clearly set forth in this Court's order.

The Board agrees that one of the functions a Special Master could usefully perform would be to preside at and conduct the stockholders meeting on April 25, 1978, and we have no objection to recommendation C-5 of the Commission that the meeting be conducted in that manner.

6. The Stock Held by Receiver Andrew L. Maloney, Esq.

For the reasons already set forth in the affidavit of John Mosler sworn to September 6, 1977 and the Memorandum of Law by counsel to ICC submitted therewith, we concur with the recommendation of the Commission that the shares of ICC stock held by Andrew L. Maloney, Esq. should be counted for purposes of a quorum but should not be voted on any matters. This is the same position taken by Mr. Maloney.

7. The Nominating Process and the Preparation of Proxy Material.

In principle, the Board is opposed to procedures which interfere with normal corporate operating processes any more than is necessary to achieve the objectives of the original Final

Judgment on consent dated March 17, 1973. Specifically, we believe that in accordance with usual corporate procedures:

(i) the Notice of Meeting and Proxy Statement should be prepared and mailed by ICC;

(ii) the Board of Directors should nominate a slate of directors which it is prepared to recommend for election; and

(iii) individual members of the present Board should be permitted to stand for election by the stockholders if they so desire.

In the special circumstances of this election we recommend that the following procedures also be followed:

(i) the number of directors to be elected should be left at ten or such other number, (not less than five nor more than ten), as the Board shall determine by further amendment to the by-laws made on or before January 1, 1978;

(ii) a Notice of Meeting, Proxy Statement and Proxy should be prepared by ICC and mailed to stockholders;

(iii) such Proxy Statement should list as nominees for the Board of Directors the names, (with necessary additional information required by the Securities Exchange Act and the Proxy Rules), of all persons whose names have been placed in nomination by the Board of Directors of ICC, by the stockholders who are parties to this action, and by other stockholders who have submitted names and the necessary information to ICC by February 28, 1978 in accordance with the procedures outlined hereinafter.

(iv) the form of Proxy should list all nominees; the slate of nominees recommended by management should be grouped and identified as such on the form of Proxy; any other slate of nominees may be similarly grouped and identified; and

(v) apart from the mailing of the Notice of Meeting and Proxy Statement containing the names and necessary additional information as to all such nominees, no further solicitation expenses should be incurred by ICC, and all subsequent mailings done by individuals or groups seeking election should be conducted at their own expense, whether or not they are persons associated with or approved by management.

8. (a) Management Slate and the Right of Present Board Members to Stand for Election.

As set forth above, the Board believes it essential to its role as management that it be permitted to nominate a slate of directors which will be clearly identified as nominated and approved by management. This is consistent with the fact that we are directors and that such a function is part of a director's duty. In the case of a corporation which has found itself in such straits as to require court appointment of the members of its Board of Directors, the performance by such directors of the selection of a management slate is of even greater importance. To us it is inconceiveable that a company in such condition could attract or retain the operating executive personnel necessary to its survival under a rule which prevented the Board of Directors from nominating a management slate and which disqualified any director from standing for election. It is tantamount to telling the executive personnel and prospective replacements that the Board which seeks to hire them and fix the policies under which they conduct the business will most assuredly not be around (even in part) within the time frame necessary to judge the quality of their efforts and that they will be answerable to a wholly new set of faces. Under such circumstances, management loyalty, discipline and esprit de corps would be virtually impossible to maintain. The power of the Board to nominate a slate does not mean that the stockholders have to elect it and the right of a director to stand for reelection does not mean that a stockholder has to vote for him, but if the Board's power to nominate is taken away and the director is disqualified from even standing for election, in our view, the consequences at the operating level would be unacceptable. As was pointed out, we know of no provision of the Final Judgment of March 1973 which in language or by implication requires or even suggests that the Board not be permitted to exercise the function of nominating a management slate or which requires or even suggests that court appointed directors are disqualified from standing for election by the stockholders.

We respectfully urge the Court not to adopt such rules.

The affidavit of Edward Brodsky, sworn to September 15, 1977 contains numerous charges, inuendo and imputations of improper motives on the part of the present directors, most of which require no response. However, in respect to the question of whether Elmer Sticco ought to be permitted to stand for election as a director, I believe I should point out to the Court that the Brodsky affidavit is in error in stating that all of Mr. Sticco's stock was acquired by exercise of employee stock options. Of the 56,000 shares held by Mr. Sticco, 35,000 were acquired by exercise of option and 21,000 were purchased outright. The other assertions made by Mr. Brodsky on the question of Mr. Sticco need not be dignified with further comment beyond those set forth in Mr. Mosler's affidavit of September 6, 1977.

(b) Fixing of the Number of Directors to be Voted Upon.

I wish to call to this Court's attention Article NINTH of the Certificate of Incorporation of ICC, which contains (see page 10) specific authorization to the Board of Directors to alter, amend or repeal the By-Laws of the Corporation subject only to By-Laws of the Corporation adopted by the stockholders. In exercise of the Board's powers under this Section of the Certificate of Incorporation, on August 18, 1977 the Board adopted a By-Law amendment to increase the number of directors from 5 to 10 effective upon the date of the holding of the next stockholders' meeting. The Board reserves the right to exercise its power to further amend the By-Laws any time prior to January 1, 1978. The number of directors would be selected based on the needs of the Company at that time. The number 10 selected by the present Board was believed to have certain features particularly useful in a restoration to stockholder control while the IOS negotiations were still pending. It permitted the continuance of the present directors while adding a majority of new directors. It also was a number which was large enough so as not to be conducive to domination by any particular interest. The number which we would select in connection with the forthcoming meeting in April 1978 might be the same, but our decision would have to be made based on the circumstances applicable at that time, including, but not limited to, whether the IOS claims have been finally settled, and at what cost. There is no basis whatsoever for the contention that the Board ought to be disqualified from exercising this power to so amend the By-Laws. It might be added that the exercise of this power by the present Board is not absolute or final. In addition to the right of any stockholder to challenge the Board's decision in this Court once it has been made, there is the right of the stockholder to submit a proposal at the shareholders' meeting to fix the Board at a different number, which if carried, would apply to the very Board being elected.

9. The Role of a Special Master.

(a) **Eligibility of Nominees**. If a Special Master is appointed by this Court, he should serve as an arm of the Court in determining whether the conditions of the Court's order governing the election of directors have been complied with. Therefore, we disagree with recommendation A(2) of the Commission which would give the Special Master broad discretion to determine the eligibility of nominees.

Our counsel have advised us that it is questionable whether either the Special Master or even the Court would have the power to disqualify a person from being a nominee, except, conceivably, for the reason that such person was named as a defendant in this action, or an alter ego, agent or affiliate of such a defendant. However laudable one might find the objective of keeping "undesirables" out of the management of ICC, we know of no basis for the exercise of this type of extraordinary power over selection of corporate management by the Commission or by this Court, so long as there is full and complete disclosure of the facts relating to the nominee.

Indeed, our counsel have questioned whether this Court can properly disqualify even the Vesco defendants or persons representing them from standing for election except upon an application by the Commission or Special Counsel for an injunction based on the allegation that the wrongs set forth in the original Commission complaint would be continued or furthered by permitting such person to seek or hold office as a director of ICC. Such an application should be made directly to the Court, not a Special Master.

Under no circumstances should the Special Master be given any affirmative powers with respect to other elements of eligibility, such as whether a candidate has sufficient stock ownership to justify his nomination, or whether it is in the best interests of ICC for the present directors to stand for election, or any other discretionary or judgmental functions in selecting nominees.

(b) Preparation of Proxy Material. We do not believe that the Special Master should prepare the proxy material. We would anticipate that ICC would receive nominations from management, stockholders who are parties to this action and other groups of stockholders, and we would include such nominees in the Proxy Statement and Proxy to be prepared by ICC and mailed to stockholders. The Master should review this material and determine any objections thereto made by other parties all subject to review by this Court.

(c) Procedures for Conduct of Election. We also object to the Special Master having any discretion to choose the procedures for conducting the election beyond what would be authorized under Florida law and under ICC's certificate of incorporation and by-laws, and specifically object to any suggestion that the Special Master would be authorized to decide that a "run-off" election was either necessary or appropriate. Counsel have advised us that "run-off" elections are not authorized by the laws governing the election of directors of ICC.

(d) Eligibility and Time Schedules. The Court's attention is also called to the fact that under the laws of Florida, and under the Securities Exchange Act of 1934, a person cannot be disqualified from seeking election as a director because he has not complied with a time schedule fixed by the Commission in its Recommendations, or even by this Court. Therefore, it must be recognized that after the Company's proxy material has been published, any stockholder may decide to seek election by the conventional manner of preparing, clearing and circulating proxy material for that purpose. However, if a nominee wishes to be included in the proxy material prepared and mailed by ICC, such nominee, or his sponsor, should be required to file appropriate information with ICC and the Special Master, including copies of any relevant Schedule 14B in time for a review by the Special Master, and for inclusion in the proxy material, and we have no objection to time schedules being established for such purpose.

(e) Objections to Company-Prepared Proxy Material.

The Board recommends that the proxy material prepared by ICC be submitted to the Special Master, and to other interested parties, prior to mailing to stockholders, for review by the Special Master as to compliance with the order of this Court. The Commission, Special Counsel and any interested stockholder should be permitted to challenge the propriety of the proxy material only on such grounds as unfairness of placement of names of nominees, failure to include one or more nominees or unfair advantage to one group or another, or failure to comply with the order of this Court. The Special Master, on notice and after a hearing, if he deems it appropriate, should make a determination as to any matter challenged, subject, of course, to review by this Court.

10. Stockholders Lists and Inspection of Corporate Records.

ICC is prepared to make its stockholders list available to any stockholder for inspection in accordance with Florida law. ICC will advise Special Counsel and the Commission of all requests for such inspection. If the Commission or Special Counsel knows of any reason why a particular stockholder requesting such inspection should not be permitted to do so they should be required to apply to this Court to restrain such inspection. The question of furnishing of copies of such lists should be handled by the Special Master.

ICC will make a complete set of the minutes of the Board of Directors since its taking office in March, 1973 and furnish a copy of same to the Special Master to be made available to stockholders. With respect to other corporate records, stockholders should communicate with ICC, and if arrangements for inspection and copying can not be made to their satisfaction they should apply to the Special Master.

11. Relief Requested.

Attached hereto as Annex I is a more detailed specification of the requests made by ICC in connection with the pending motion. It was prepared by Counsel for ICC to assist in the formulation of the Court's order.

Sworn to before me this
27th day of September, 1977

Irene E. Rakoneczny
Notary Public

IRENE E. RAKONECZNY
Notary Public, State of New York
No. 41-4642088
Qualified in Queens County
Certificate filed in New York County
Commission Expires March 30, 19

ANNEX 1

Requested Disposition of Motions Pending Before the Court.

Consistent with the position set forth above, ICC makes the following requests for relief:

(A) (Disposing of the motion of petitioner Malhas, et al. dated September 2, 1977):

(i) That so much of the motion as seeks to prohibit Court appointed directors from succeeding themselves in office at the next election be denied.

(ii) That so much of the motion as seeks to prohibit Court appointed directors of ICC from using Company funds to solicit proxies on behalf of themselves and those affiliated with them for the next election of directors be denied except to the extent hereinafter set forth in paragraph "C."

(iii) That so much of the motion as seeks an order directing ICC to formulate and present to the Court a plan for the orderly transition of the stewardship of ICC to an independent Board of Directors elected by ICC shareholders, etc. be denied.

(iv) That so much of the motion as seeks an order rescinding the action of the Court appointed Board of Directors setting a record date of August 1, 1977 and a meeting date of October 18, 1977, be denied (the Board having agreed to postpone the meeting as herein set forth).

(v) That so much of the motion as seeks an order directing that a meeting of ICC shareholders be held for purposes of electing directors after the

ICC plan for orderly transition is approved by the Court and forwarded to shareholders be denied except as hereinafter provided in paragraph "C."

(vi) That so much of the motion as seeks an order prohibiting Elmer A. Sticco from standing for election as a director be denied.

(vii) That so much of the motion as seeks an order directing that the shares of ICC stock held by Andrew L. Maloney, Esq. not be counted for quorum or any other purpose, be denied.

(viii) That petitioner's request for "other and further" relief be denied except as hereinafter provided:

(B) (Reports and Settlement of the IOS Related Claims)

(i) That special counsel be directed to file his report on or before November 5, 1977.

(ii) That the Board of Directors be authorized to distribute its report of August 18, 1977 forthwith and such material as it deems appropriate by way of a supplemental report after receiving Special Counsel's report.

(iii) That on or before December 31, 1977 the Company shall report to the Court on the status of its negotiations with the IOS related entities.

(iv) That no settlement of the IOS related claims be effectuated by the present management without first securing the approval of the Court.

(C) (Conduct of Stockholders Meeting)

(i) That the Annual Meeting of Shareholders for the year 1978 be held on April 25, 1978, the same being the last Tuesday of April, 1978 as specified by Section 2 of Article I of the By-Laws. That said meeting be held at a suitable place in the Southern District of New York.

(ii) That the meeting be held in accordance with the provisions of this Court's order, the Certificate of Incorporation, by-laws and other applicable state and federal law.

(iii) That within 15 days from the date of this Court's order and at the same time as the Company mails the report of August 18, 1977 it advise the stockholders in writing of the new meeting date of April 25, 1978 and the reasons for postponing the meeting; and that the reason for postponing the meeting was the adverse effect the meeting would have on the pending negotiations with the IOS related entities.

(iv) That the letter accompanying the report of August 18, 1977, also inform the stockholders of their right to make nominations to be included in the Notice of Meeting and Proxy Statement circulated by the Company and further advise stockholders that if they wish to so place names in nomination they must deliver to the Company on or before February 28, 1978, all information with respect to said nominations as required by the Securities Exchange Act of 1934 and the regulations promulgated thereunder. The stockholders should be further advised that they are not required to proceed in this fashion in order to nominate a candidate for election but only if they wish to have the names of their nominees circulated with the Notice of Meeting and Proxy Statement mailed by the Company.

(v) On or before April 1, 1977 the Company shall mail to stockholders a Notice of Meeting and Proxy Statement for an annual meeting of shareholders to be held April 25, 1977. The Proxy Statement shall contain among other things, the names of all persons who have been placed in nomination by stockholders in compliance with Item "C. (iv)" above and all information relating to said nominees, required by the Securities Exchange Act of 1934. There shall be mailed with said Notice of Meeting and Proxy Statement a printed form of proxy designating an independent person or persons as proxies to vote the shares of the respective stockholders executing same for the nominees indicated on said proxy form. The proxy form shall list all persons whose names have been placed in nomination as aforesaid. The stockholders shall be instructed to select their choices by marks next to the names selected. Persons who wish to be considered together as a slate may be physically grouped or listed together on the form of proxy. Said separate grouping may contain a designation indicating the sponsoring group or nominating stockholder such as "nominated by management" or "nominated by John Jones" or "sponsored by independent stockholders committee", etc.

(vi) Except for the Preparation and Mailing of the Notice of Meeting and Proxy Statement and form of Proxy as aforesaid the funds of the Company shall not be used for the purpose of soliciting proxies for any nominee or slate of nominees by management or otherwise. However, the Company may employ professional proxy solicitors for the sole purpose of endeavoring to insure that a quorum is present at the annual meeting but not to solicit votes for any candidate.

(vii) No person seeking nomination whose name appears in the material distributed by the Company as aforesaid shall be precluded from also conducting other and further solicitations in accordance with law or from disseminating (in accordance with law) proxy material and forms of proxy limited solely to his own nominees and naming a person otherwise qualified to act as proxy for the purpose of voting same at the meeting.

(viii) No person shall be disqualified from being nominated or elected as a director of the corporation by reason of the fact that he serves or has served on the present Board of Directors.

(ix) Nothing in the Court order should be deemed to deprive the Board of Directors of its power to propose and nominate a slate of directors recommended by the present Board.

(x) Nothing in the Court order should be deemed to deprive any person of his right to seek nomination or election to the Board of Directors in accordance with law whether or not said person is included in the Notice of Meeting, Proxy Statement and form of Proxy prepared and mailed by the Company as hereinabove provided.

(xi) In the event any party to this action or any stockholder or any other person seeks to enjoin solicitation of proxies or the nomination or election of any person, he may do so by application directly to the Court setting forth inter alia the basis upon which the Court's jurisdiction is invoked, the facts upon which such relief is requested and the legal basis for the application. Notice of said application should be given to the Company and all other parties to the action.

(xii) A Special Master should be appointed who shall be authorized to (a) conduct and preside at the meeting of April 25, 1978 and to appoint Inspectors of Election to count the votes and certify the results; (b) to review the proposed Notice of Meeting, Proxy Statement and form of Proxy prepared by the Company and in connection therewith to authorize the Company to decline to include nominations in the Notice of Meeting and Proxy Statement in the event that the persons making same have not furnished the Company the information required by it to comply with applicable law; (c) to furnish copies of the Notice of Meeting, Proxy Statement and form of Proxy as proposed by the Company to all interested parties and such other stockholders of the Company as he deems appropriate; and (d) to hear and determine (subject to the Court's review) all objections made with respect thereto; (e) to perform the functions with respect to inspection and copying of records of the Company as hereinafter provided in "E".

The Special Master's powers should be limited to those set forth above. He should not be empowered to determine questions of eligibility to hold office or claims of violation of the Securities Exchange Act of 1934. He should have no power to set aside the election or declare votes invalid which are counted by the inspectors or to order new elections or "run-off" elections.

(D) (Number of Directors to be Voted Upon)

(i) The number of directors to be voted upon at the Annual Meeting shall be ten unless changed by the Board of Directors on or before January 1, 1978 by Amendment to the By-Laws. In the event of such a change the Board shall communicate this information to all parties to this action, to the Special Master, and to all stockholders who have indicated an interest in making nominations. In the event any person seeks to challenge the action of the Board of Directors in changing the number of directors as aforesaid, they shall do so by application to this Court made within 15 days after notice of the change. (However, nothing in this Court's order should be deemed to abridge the right of any stockholder to submit a stockholder's proposal to be voted upon at the stockholders meeting to have the number of directors on the Board reduced or enlarged.)

(E) (Record Date and Inspection and Copying of Records)

(i) the record date for the Annual Meeting should be March 15, 1978. The Company shall order its Transfer Agent to prepare a stock list as of the record date as soon as possible thereafter and shall deliver a copy of said stock list to the Special Master.

(ii) Within 5 days following the date of the Court's order, the Company shall deliver a copy of its stock list as of August 31, 1977 to the Special Master and shall also deliver to the Special Master a complete set of the minutes of the Board of Directors of the Company. From time to time thereafter, the Company shall deliver to the Special Master copies of minutes adopted and approved by the Board of Directors and the Transfer Agent shall be directed to furnish copies of the daily transfer sheets to the Special Master.

(iii) The Special Master shall make available for inspection and copying (at the cost of the person seeking such copies) any of the records turned over to him by the Company, to any stockholder upon receipt by him of satisfactory assurance that the inspection and copying is sought for purposes of the meeting of stockholders; provided, however, that the Special Master shall notify Special Counsel and the SEC of all requests for inspection and if either indicates that they object to such inspection, he shall delay such inspection and copying for a period not to exceed 5 days to permit a motion by Special Counsel or the SEC to prevent same. Such motion shall be made directly to this Court by way of application for an order enjoining such inspection.

(iv) No photocopying shall be permitted of the Minutes of the Board of Directors except upon three days written notice to the Company specifying the material to be photocopied. The Company if it objects to such copying may apply directly to the Court for an order prohibiting the copying or placing restrictions or limitations on such copying.

(v) Any stockholder desiring to inspect or copy any other record of the Company who is refused such inspection by the Company may apply to the Special Master who shall determine (subject to Court review) whether same should be made available by the Company.

AFFIDAVIT OF EDWARD BRODSKY SWORN TO ON SEPTEMBER 27, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

SECURITIES AND EXCHANGE COMMISSION,	:	
Plaintiff,	:	**AFFIDAVIT**
- against -	:	72 Civ. 5001 (CES)
ROBERT L. VESCO, INTERNATIONAL CONTROLS CORP., et al.,	:	
Defendants.	:	

- x

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

EDWARD BRODSKY, being duly sworn, deposes and says:

I am a member of the firm of Spengler Carlson Gubar Churchill & Brodsky, attorneys for petitioners, Wade S. Malhas, Irving Horowitz, Martin Jacoby, Charles Birbara, Cornelius A. Hubner, Murray Dryer, Phil Birbara, N.E. Burgess and William Zeidman (collectively "Petitioners") in this action. This affidavit is submitted on behalf of the Petitioners at the request of the Court for the views of interested parties to this action on the Recommendations of Plaintiff, Securities and Exchange Commission, Regarding Election of Directors of International Controls Corp. (hereinafter the "Commission's Recommendations"), filed on September 15, 1977.

We support, in principle, the Commission's Recommendations of the appointment of an independent Special Master or Monitor to supervise and conduct the election of directors of

International Controls Corp. ("ICC"). It is our understanding that the Special Master will solicit written nominations for directors from the ICC shareholders and will forward the list of candidates for director to ICC shareholders. As we understand it, the Special Master will not make recommendations as to particular candidates and will not hire a proxy soliciting firm or otherwise solicit proxies on behalf of a candidate or a slate of candidates for director.

We believe that the adoption of the Commission's Recommendations is a step in the right direction toward guaranteeing that all shareholders of ICC have the opportunity to participate in the transition from court-appointed to shareholder-elected board of directors. However, Petitioners do object to certain portions of the Commission's Recommendations and seek a resolution of other points raised.

Objection to Date of Shareholders' Meeting

The Commission's Recommendations would set April 25, 1978 as the date for the Annual Meeting of Shareholders of ICC, with March 15, 1977 as the date by which proxy materials would be prepared and filed by the Special Master and April 1, 1977 as the date by which proxy material would be mailed to all shareholders of record as of March 1, 1977.

Petitioners object to the setting of so late a date for the long-delayed shareholders' meeting. While recognizing that the procedure formulated by the Commission's Recommendations will require time for the Special Master to prepare a transition plan and to solicit shareholder nominations, Petitioners do not believe that a total of seven months is needed to complete the process. This Court's Order of April 19, 1977 contemplated a shareholders meeting no later than December 15, 1977, and that schedule should be adhered to insofar as possible. No explanation is offered in the Commission's Recommendations why an additional four months would be required.

The rights of ICC shareholders to elect their own directors should not be suspended any longer than necessary to allow the Special Master to perform his designated functions. For this reason, Petitioners respectfully request that the date for the Annual Meeting of Shareholders of ICC be set in January 1978 rather than April 25, 1978. The fact that the ICC By-Laws state that the meeting should be held on the last Tuesday of April of each year is irrelevant. Meetings have been suspended for four years. There is no reason why a meeting cannot be held in January 1978, with the next meeting after that to be held in April 1979.

Use of Corporate Funds

Paragraph A(5) of the Commission's Recommendations excludes use of corporate funds of ICC, its subsidiaries or affiliates for solicitation of proxies or for the purpose of election as a director of ICC. While this provision seems clear, we believe that it should be expanded to exclude any use of corporate funds for soliciting proxies or otherwise seeking election as a director, including such things as travel at company expense for the solicitation of proxies.

Spending Own Funds for Proxy Solicitation

It should be made clear that nothing in the Commission's Recommendations or in any Court order to follow those recommendations should prohibit any person or group of persons from using their own funds for the purpose of designating a slate of directors and for soliciting proxies or otherwise seeking election in accordance with applicable SEC rules.

Number of Directors

The Commission's Recommendations fail to respond to Petitioners' request that the recent amendment to the ICC by-laws increasing the required number of directors from five to ten be rescinded. Petitioners argued in their motion papers that this increase in the size of the board was hastily adopted by the interim directors without prior court approval and seemingly for no purpose other than to aid their efforts to perpetuate themselves in office.

Under the Commission's Recommendations, the decision as to the appropriate size of the elected board apparently would be left to the Special Master. Petitioners agree that the action taken by the interim directors purporting to double the size of the ICC board should be disregarded, but argue further that the previous by-laws should be reinstated. Permitting the Special Master to designate a board size of ten would, we believe, be unwieldy given the circumstances under which the election is being conducted. For the first shareholder election of directors after the years of court supervision, the previous board size of five directors should be retained.

Eligibility of Candidates

The Commission's Recommendations provide that the Special Master should have reasonable discretion to determine the eligibility of candidates. However, the Commission does not recommend any standards for the Special Master to use in the exercising of that discretion. We would think that the Special Master should be given such standards.

Opportunity to Comment

The Commission's Recommendations provide that the Special Master is to prepare a Plan of Election as part of the transition of ICC from court-appointed to shareholder-elected directors. The plan would be submitted both to the Court and to the Commission prior to implementation. Petitioners request that they be furnished a copy of the Special Master's plan when it is filed with the court and be afforded a reasonable time to comment on the Special Master's plan. Petitioners have raised a number of issues in their motion which the appointment of a Special Master does not resolve in and of itself (i.e., whether or not a court-appointed director may be designated as a nominee under any circumstances). Petitioners should have the right to respond to the Plan of Election proposed by the Special Master.

Edward Brodsky
Edward Brodsky

Sworn to before me this
27th day of September, 1977.

Joanne M. Loehner
Notary Public

JOANNE M. LOEHNER
NOTARY PUBLIC, State of New York
No. 4[illegible]5650
Qualified in Queens County
Certificate filed in New York County
Commission Expires March 30, 1978

REPLY AFFIDAVIT OF EDWARD BRODSKY SWORN TO ON SEPTEMBER 28, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
- -X

SECURITIES AND EXCHANGE COMMISSION, : ~~72 Civ. 500~~
(CES)
Plaintiff, :

-against- :

ROBERT L. VESCO, INTERNATIONAL CONTROLS :
CORP., et al.,
Defendants :
- -X

REPLY AFFIDAVIT TO POSITION OF INTERIM ICC BOARD

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

EDWARD BRODSKY, being duly sworn, deposes and says:

I am a member of the firm of Spengler Carlson Gubar Churchill & Brodsky, attorneys for petitioners, Wade S. Malhas, Irving Horowitz, Martin Jacoby, Charles Birbara, Cornelius A. Hubner, Murray Dryer, Phil Birbara, N.E. Burgess and William Zeidman (collectively "Petitioners") in this action. This affidavit is submitted in reply to the "Position, Recommendations and Request of the Board of Directors of International Controls Corp." served on Petitioners on September 26, 1977.

The interim board's position statement, while purporting to adopt a neutral stance regarding the appointment of a Special Master, would in reality strip the Special Master of any substantive function and leave effective control of the proxy machinery and of the election of a new ICC board of directors in the hands of the present court-appointed board. It cannot be the intent of the Commission's Recommendations to designate a Special Master with power to perform only ministerial acts at the direction of the interim board. This Court should not sanction use of the Special Master device merely as judicial gloss which would hide the reality of a court-appointed board using the mantle of incumbency to perpetuate itself in office.

The interim board proposes to retain essentially the same process for nomination and election of ICC directors as they put into operation prior to the Petitioners' motion which first questioned their conduct. Under their proposals, the interim board would maintain control over the preparation of proxy materials and the mailing of the Notice of Meeting and Proxy Statement to the shareholders of ICC and would even be permitted to nominate a "management slate" of directors for election grouped and identified as such on the form of proxy.

The role of the Special Master would be emasculated under the scheme advanced by the interim board. Instead, the election process would be controlled by one group which seeks to have the names of its members placed in nomination as a management slate -- namely, the present court-appointed board. In the same vein, the interim board recommends that the Special Master be deprived of discretion to determine the appropriate size of the new board of directors, claiming that the court-appointed board has the right to amend the by-laws and alter the required board size as many times as they desire prior to January 1, 1978.

Petitioners reject the interim board's position statement as a blatant attempt to undermine the Commission's Recommendations. The court-appointed directors still seek to ignore the events of the past four years which placed them in their present position and to hide behind the pretense that the situation confronting the Court is a normal shareholder election of directors. The Commission's Recommendations recognize that this is not the case. The present board operates under a conflict of interest which should bar them from controlling the process by which the transition from court-appointed to elected directors of ICC is accomplished.

It is Petitioners' positin that no individual or group should be given a preference in the election of a new board of directors for ICC. Permitting the court-appointed directors to control the proxy machinery so that they may designate their own nominees as a management-recommended slate would afford them an insuperable advantage over other nominees proposed and is contrary to the Commission's Recommendations.

Petitioners note that the interim board's position statement appears to concur in the Commission's Recommendations that no company funds be used for soliciting proxies on behalf of the interim board's nominees. However, the court-appointed directors have already used ICC corporate funds to prepare one set of proxy materials purporting to nominate themselves and they continue to use corporate funds for the purpose of opposing the Commission's Recommendations, all actions designed to perpetuate themselves in office.

Petitioners respectfully urge that the interim board's position statement be rejected and the Commission's Recommendations be adopted with the modifications suggested in our affidavit dated September 27, 1977.

Edward Brodsky

EDWARD BRODSKY

Sworn to before me this

28th day of September, 1977.

Joanne M. Loehner

Notary Public

JOANNE M. LOEHNER
NOTARY PUBLIC, State of New York
No. [illegible]25650
Qualified in [illegible] County
Certificate filed in New York County
Commission Expires March 30, 1978

ORDER OF HON. CHARLES E. STEWART DATED SEPTEMBER 29, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION

Plaintiff

v

72 Civ. 5001 (CES)

ROBERT L. VESCO, et al.,

Defendants

ORDER

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STEWART, District Judge:

The Court having issued an order on April 19, 1977 regarding the conduct of an election of directors of International Controls Corporation ("ICC").

ICC having filed proxy materials with plaintiff setting an election date for October 18, 1977 and certain proposed intervenors having moved in opposition thereto which motion was after hearing on August 30, 1977 denied with leave to renew;

Proposed intervenors having moved on September 2, 1977 for an order with respect to various aspects of the election and hearings having been held thereon on September 7, 16 and 29,

IT IS ORDERED:

1. The order of April 19, 1977 is modified as follows:
    - (a) Paragraph (2) is amended to change August 15, 1977 to November 5, 1977.
    - (b) Paragraph (6) is amended to change September 30, 1977 to November 5, 1977.

(c) Paragraph (7) is deleted.

2. An election of directors by the shareholders of ICC shall be held on April 25, 1978.

3. The election shall be conducted and supervised by a Special Master to be appointed by the Court pursuant to Rule 53, F.R.C.P. and the general equity power of the Court.

4. The Special Master shall prepare and submit to the Court, by November 1, 1977, a plan containing his recommendations to the Court for the conduct and supervision of the election. In this connection, the Special Master shall consider and make recommendations to the Court with respect to the various proposals contained in the motion papers of the proposed intervenors, and the responses thereto by plaintiff and ICC. Objections to the Special Master's plan shall be filed with the Court no later than November 10, 1977.

5. The Special Master shall be entitled to payment of reasonable compensation for his services and of his necessary expenses, including but not limited to the employment of counsel, subject to the approval of the Court. Such payment shall be made by ICC.

6. ICC shall submit to the Court for approval on or before December 31, 1977 a plan of settlement of IOS related claims against ICC, subject to any application with respect thereto which ICC may submit to the Court on or before December 15, 1977.

7. ICC shall have completed by March 15, 1978 financial statements prepared by independent auditors for the calendar year 1977, subject to any application by ICC on or before February 28, 1978.

8. The Court hereby appoints Arnold Bauman as the Special Master.

United States District Judge

DATED: September 29, 1977
New York, New York

FIRST RECOMMENDATIONS OF SECURITIES AND EXCHANGE COMMISSION DATED OCTOBER 19, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. ROBERT L. V[illegible]CO, et al., Defendants.	72 Civ. 5001 (CES) FIRST RECOMMENDATIONS OF SECURITIES AND EXCHANGE COMMISSION TO THE SPECIAL MASTER (October 19, 1977)

WHEREAS pursuant to the Court's Order of September 29, 1977, the Honorable Arnold Bauman has been appointed Special Master, with broad powers to conduct and supervise an election of directors by the shareholders of International Controls Corp. ("ICC"), and

WHEREAS the September 29, 1977 Order provides that the Special Master "shall prepare and submit to the Court, by November 1, 1977, a plan containing his recommendations to the Court for the conduct and supervision of the election" ("November 1, 1977 Plan"), and

WHEREAS at a meeting held on October 7, 1977, the Special Master requested that the Securities and Exchange Commission ("Commission") file relevant recommendations on the November 1, 1977 Plan,

NOW THEREFORE, the Commission respectfully submits these "First Recommendations."

I. Communications with Shareholders

All communications to ICC shareholders about the election should be made by the Special Master.

II. Shareholder Lists and Minutes

The ICC stockholder list and all ICC Board minutes from March 1973 to date should be submitted to the Special Master as soon as feasible. The intervenors' request for said ICC shareholder list should be presently deferred and until the Special Master deems it necessary and desirable for the intervenors to have access to said stockholder list. Paragraph 3 of the Intervenors Proposed Report By Special Master to the Court ("Intervenor's Proposed Plan") should, therefore, be rejected.

III. Size of the Proposed ICC Board

The Special Master should recommend a number of directors for the ICC Board. The Special Master recommendation of the Board's size should take into account, among other things, the following considerations:

(1) independence and freedom from domination by a powerful executive;

(2) ability of ICC to function with ease in establishing quorums at Board and Committee Meetings.

The incumbent, Court-supervised Board's action of August 18, 1977, in altering the size of the board presents a substantial legal question.

IV. Determination of Nominees for the ICC Board Election

The Special Master should canvass all shareholders, and any other persons deemed appropriate, for nominations for candidates for the ICC Board election.

The Special Master should reserve the right, but defer judgment, to disqualify any person from being a candidate for election to the ICC Board. Any such decision should be made only after (1) the shareholders express their preference as to who should be ICC Board candidates, and (2) the Commission and Special Counsel to ICC have concluded their present inquiry into possible relationships of the defendants in this case to any interested persons and the intentions expressed by the intervenors regarding the prospective operation of ICC (pursuant to Paragraph 4 of the Order of the Court, dated April 18, 1977).

V. Nominating Candidates For the Board

The Special Master should establish the list of persons who may stand for election as candidates for the ICC Board.

Upon completion of canvassing (Section IV., supra), the Special Master should prepare a tentative list of candidates, which should include all names of persons suggested in the canvassing. Except that, in determining who should be placed on this list, the Special Master may recommend disqualification of any suggested candidate, based upon the results of the canvassing of the ICC shareholders, the results of the present inquiry by the Commission and Special Counsel to ICC, and such other factors, including but not limited to, relevant experience and conduct.

The Special Master should give notice of those persons recommended for disqualification. These persons, as well as interested parties, should have an opportunity to be heard on the issue, at the first instance before the Special Master, subject to Court review.

The Special Master should contact each candidate on the tentative list of candidates and determine whether he or she is willing to stand as a nominee. Each candidate so assenting should be required to complete and return to the Special Master a form containing information as to their background and qualifications, such form to be prepared by, or under the direction and supervision of, the Special Master.

The Special Master should then prepare preliminary proxy material, including the final list of candidates and all relevant material information relating to each one.

On or about February 1, 1978, said preliminary proxy material should be completed.

The number of candidates on the list of nominees should be recommended be the Special Master, and should not exceed a reasonable number of candidates. The number of candidates on the list of nominees should reflect such discretion and will depend on the number of suggested candidates, disqualifications, and number of vacancies on the Board to be filled. The listing should be presented in a disinterested way, such as choosing places on the list by lot or alphabetically. No candidates should be identified as part of a slate recommended by anyone, including management.

VI. Proxy Material

The proxy material should be sent to ICC shareholders of record as of March 1, 1978, during the first part of March, 1978. This date, of course, is subject to resolution of any objections to the Special Master's proposed proxy material, Court approval thereof, and Commission staff comments on the proxy material in accordance with applicable law.

VII. Use of Corporate Funds for the Annual Meeting

No corporate funds of ICC or its subsidiaries or affiliates should be used for the purpose of election of a director. The Special Master should control and direct the preparation, filing and dissemination of the proxy material, including the Notice of Meeting, the list of candidates, qualifications and background.

The Special Master should use ICC corporate funds for the said preparation, filing and dissemination of the proxy materials. The Special Master may retain, if deemed necessary, professional proxy solicitors for the purpose of endeavoring to insure a quorum at the shareholders meeting.

ICC corporate funds may be used for this purpose. Any professional proxy solicitor so retained shall not solicit votes for any candidate or candidates.

VIII. Use of Personal Funds to Solicit Proxies or Disseminate Additional Proxy Material

The issue of whether any person may use personal funds to solicit proxies, or disseminate additional proxy material, should be resolved only after it is known which candidates have been selected to be candidates. The controlling factor in this issue should be fairness to the ICC shareholders, in terms of equal information on all candidates. Accordingly, Paragraph 12 of the Intervenor's Proposed Plan should not be adopted at this time.

IX. Procedure for Objections

Any party, ICC shareholder or other person who seeks to enjoin solicitation of proxies or the nominations or election of any person may do so by application first to the Special Master, with appropriate supporting factual and legal papers, and appropriate notice. The Special Master should review the applications and make recommendations to the Court regarding the disposition thereof.

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X. Conduct of the Shareholders' Meeting

The Special Master should conduct and preside over the shareholders' meeting on April 25, 1978 and should appoint Inspectors of Election to count the votes and certify the results. Any disputes as to the results should be submitted to the Special Master for resolution, subject to review by the Court.

Respectfully submitted,

Gregory C. Glynn
Lester Green
Frederic M. Kreiger

Attorneys for Plaintiff
Securities and Exchange Commission
500 North Capitol Street
Washington, D.C. 20549
(202) 376-8137

William D. Moran
Regional Administrator

Marvin E. Jacob
Associate Regional
Administrator

Securities and Exchange
Commission
New York Regional Office
26 Federal Plaza
New York, New York 10007

Dated: Washington, D.C.
October 19, 1977

PLAN AND RECOMMENDATIONS OF SPECIAL MASTER DATED OCTOBER 27, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,
Plaintiff
v.
ROBERT L. VESCO, et al.,
Defendants

72 Civ. 5001 (CES)

PLAN AND RECOMMENDATIONS
OF SPECIAL MASTER

1. The Court has, by an order dated September 29, 1977 (the "Order"), appointed the undersigned a Special Master pursuant to Rule 53 of the Federal Rules of Civil Procedure and the general equity power of the Court. My duties as such Special Master are established by the Order as (1) to conduct and supervise the election of directors (the "Election") by the stockholders (the "Stockholders") of International Controls Corp. ("ICC"), one of the defendants in this proceeding, to be held at a meeting (the "Meeting") of Stockholders on April 25, 1978, (2) to prepare and submit to the Court, by November 1, 1977, a plan containing my recommendations for the conduct and supervision of the Election and (3) in this connection to consider and make recommendations to the Court respecting the various proposals contained in the motion papers

of the proposed intervenors ("Proposed Intervenors") and the responses by the plaintiff Securities and Exchange Commission ("SEC") and ICC.

2. A conference was held at my offices on October 7, 1977 at which all interested parties were invited to submit their views with respect to the conduct of the Election.

3. On October 18, 1977 a second conference was held at my offices to consider the request of ICC that it be permitted to distribute to the Stockholders the proposed Report of the Court-appointed Board of Directors of ICC prepared in August of this year. This request was opposed by the SEC and by the Proposed Intervenors. I directed that such proposed Report not be distributed.

4. Each of these conferences was recorded and the transcripts have been delivered to the Court.

5. In addition, I and/or persons acting at my direction, have conducted informal discussions with representatives of the SEC and representatives of the liquidators of IIT, an International Investment Trust, and Venture Fund (International), N.V.

6. I have retained the firm of Shearman & Sterling, of which I am a member, as counsel to the Special Master.

7. I recommend to the Court that the following Plan be adopted for the conduct and supervision of the Election.

I. Communications with Stockholders:

Recommendation:

Until the date specified in the following sentence, no communications, oral or written, shall be had with any Stockholder by any party which is now, or hereafter may become, interested in the Election, without the prior approval of the Special Master except for (i) communications with Stockholders who are currently participants in the groups formed by the Proposed Intervenors or by the Court-appointed Board of Directors of ICC to contest the Election and (ii) communications with Stockholders (not exceeding 10 in number in any such case) who may participate in any other group formed to contest the Election. On and after the sixth calendar day following the date upon which the Special Master shall have mailed to the Stockholders the Information Statement referred to in Part V of this Plan, any person or group contesting the Election shall be free to communicate with the Stockholders in accordance with applicable laws and regulations, including the Proxy Rules of the SEC.

Positions of Interested Parties:

Both the SEC and the Proposed Intervenors have suggested that "all" communications with the Stockholders relating to the Election should be made by the Special Master. This suggestion is too broad in that the parties contesting the Election should, after the guidelines for the Election have been formulated by the Special Master and disseminated by him to the Stockholders by means of the Information Statement, be free to solicit proxies in accordance with applicable laws and regulations, including the Proxy Rules of the SEC. In addition, developments may occur prior to the time the Information Statement has been disseminated, such as, for example, settlement of the pending claims against ICC, of which the Stockholders and the investing public should be informed on a timely basis by ICC. Such developments could have an impact upon the Election. Any communications with respect to any such developments will be subject to prior approval by the Special Master (who will, of course, solicit and consider the views of the SEC and other interested parties) to ensure that they are appropriate under the circumstances.

ICC does not appear to have adopted a position on this question.

II. Stockholder Lists and Corporate Records:

Recommendation:

ICC shall, within 5 business days after the date of approval of a Plan by the Court, deliver to the Special Master copies of its most current stockholder list and of all minutes of meetings of the Court-appointed Board of Directors and any of its Committees. Not less frequently than every two weeks thereafter ICC shall deliver to the Special Master updated transfer sheets and other materials sufficient to keep reasonably current the information contained in the stockholder list initially furnished. Not later than 2 business days after any meeting of the Court-appointed Board of Directors, or any of its Committees, copies of the minutes of such meeting shall be delivered to the Special Master.

With the exception of the SEC, no person shall be granted access to such records by the Special Master until the Special Master has determined that the candidates for election sponsored by, or associated with, such person are eligible for election as provided in Part IV of this Plan. ICC shall not grant access to its records to any person without the prior approval of the Special Master and upon such terms and conditions as he may specify.

Positions of Interested Parties:

This recommendation would appear to be consonant with the suggestions made by the SEC.

The Proposed Intervenors suggest that such records should be made available by the Special Master to any Stockholder upon receipt of assurances that inspection and copying of such records are sought in connection with the Election.

As explained in detail in Part IV of this Plan, the Special Master will determine the eligibility for election to the new Board of all nominees. It would be inconsistent to require the Special Master to grant access to the records of ICC, or to permit ICC itself to grant access to its records, to persons associated with nominees who have been, or may be, ruled ineligible by the Special Master.

ICC suggests that access to the records delivered to the Special Master be granted by the Special Master in accordance with the norms established by Florida law.

This suggestion does not reflect the possible effect upon the question of access to ICC's records of a determination of ineligibility of nominees by the

Special Master. ICC does not believe the Special Master should have this power.

III. Size of Board:

Recommendation:

The amendment of ICC's by-laws increasing the size of the Board, effective as of the next Stockholders' meeting, to ten, which was adopted by the Court-appointed Board of Directors in August of this year, should be allowed to stand. The Special Master believes that ten is an appropriate size for the new Board of Directors of ICC. It will ensure that the Court-appointed Directors, if reelected, will constitute a minority of the entire Board and will permit the establishment of appropriate committees of the Board composed, at least in part, of new members. Under ICC's existing by-laws a quorum of a ten-member Board will consist of five directors, ensuring that the participation of at least one new director will be required to constitute a quorum.

Positions of Interested Parties:

The SEC has suggested that the Special Master should recommend a number of directors for the ICC Board, taking into consideration, among other things, "(1) independence and freedom from domination by a powerful executive" and "(2) ability of ICC to function with ease in establishing quorums at Board and Committee

Meetings". The SEC has also stated that the August 1977 amendment of the by-laws of ICC by the Court-appointed Board of Directors "presents a substantial legal question."

Whatever the merits of this legal question may be, I believe that ten is an appropriate size for the new Board.

This recommendation would appear to be consonant with ICC's position on this issue.

The Proposed Intervenors suggest that the August amendment be repealed and the size of the Board maintained at five. Proposed Intervenors complain that the August amendment was improper principally because it was intended to operate to place Proposed Intervenors at a disadvantage in the election scheduled by the Court-appointed Board to occur in October of this year by increasing the size of the slate Proposed Intervenors would have had to elect to achieve control of the Board. Whatever the prejudicial effects of this amendment may have been in the context of an October 1977 election, they have been substantially dissipated by the postponement of the Election to April 25, 1978.

IV. Eligibility:

Recommendation:

Nominees may be proposed by the Court-appointed Board of Directors or by any Stockholder.

The Special Master shall determine the eligibility for election to the new Board of all nominees. In making such determination, the Special Master shall consider, among other things, the following:

(1) None of (i) Vesco, (ii) any individual currently associated, directly or indirectly, with Vesco, (iii) any individual previously associated, directly or indirectly, with Vesco in the commission of the wrongs which are the subject of this proceeding, and (iv) any individual reasonably believed by the Special Master to be sponsored by or acting on behalf of Vesco or any such person, shall be eligible for election to the new Board.

(2) No individual with respect to whom a disclosure would be called for by Item 6(a)(2) of Schedule 14A, (as proposed to be amended by the SEC in Release No. 34-12946, November 2, 1976) in a proxy statement filed with the SEC, and no individual reasonably believed by the Special Master to be sponsored by or acting on behalf of any such individual, shall be eligible for election to the new Board.

(3) No individual who, although not ineligible under (2), is reasonably believed by the Special Master to be a person of questionable integrity whom it would be inappropriate to allow to participate in a Court-supervised proceeding, such as the Election, shall be eligible for election to the new Board.

> (4) No nominee who shall fail to return to the Special Master a properly completed and duly sworn Questionnaire of the nature referred to in Part V of this Plan shall be eligible for election to the new Board.

Florida law appears to impose no restrictions on eligibility for election to the boards of Florida corporations, and the only requirement imposed by ICC's Articles of Incorporation or By-Laws is that at least one director must be a U.S. citizen.

The Election will not, however, be an ordinary election of directors by the shareholders of an ordinary Florida corporation. The Election, instead, represents an important step in the termination of judicial proceedings instituted to deal with the consequences of a massive securities fraud allegedly committed by Vesco and his associates, of which ICC was both the victim and the vehicle. The Court has, in effect, for the last four years suspended the application to ICC of certain rules normally applicable to Florida corporations including the rules applicable to the election of directors. The Election is a stage in the restoration of ICC to a situation where it will be appropriate to apply, once again, such rules. While the application of such rules to subsequent elections may well be appropriate, to apply them to this Election would, in my judgment, represent an excessively abrupt termination of judicial responsibility. To admit the possibility that Vesco and his associates could participate in the Election would be scandalous. It would be scarcely, if at all, less scandalous to admit the possibility that persons whose past conduct had been comparable to Vesco's could participate in the Election.

Positions of Interested Parties:

The suggestions made by the SEC appear to be consistent with the above recommendation except that the SEC suggests that the nominations be limited to a "reasonable" number. Since each nominee will be required to complete a detailed Questionnaire under oath, it is not likely that many frivolous nominations will be made. Accordingly, the imposition of a "reasonable" ceiling on the number of nominees is probably unnecessary and would, in any event, probably be inappropriate.

The Proposed Intervenors would have the Special Master disqualify, in addition to the Vesco defendants, "persons who have misused funds of ICC" and the incumbent Court-appointed Directors. Clearly individuals who have culpably misused ICC's funds will be excluded.

I am not persuaded by the argument of the Proposed Intervenors that it would be inappropriate to allow the Court-appointed Directors to run for election to the new Board. The possibility exists, moreover, that the exclusion of the Court-appointed Directors (1) would deprive the Stockholders of the opportunity to benefit from the experience and knowledge of ICC's affairs accumulated by the Court-appointed Board and (2) could result in the Election going by default to the candidates of the Proposed Intervenors or any other group which may hereafter become interested in the Election. I believe it is entirely appropriate to preserve for the Stockholders the opportunity to decide whether the election of the present Directors to the new Board is in their best interests.

ICC believes that the Special Master should have no discretion in determining the eligibility for election of nominees proposed by the Stockholders or by ICC. This position appears to be founded on the notion that the Election should be considered to be a regular election subject to regular corporate procedures. For the reasons set forth above I believe this position to be ill founded and that no useful purpose will be served by attempting to conform to this fiction.

V. Materials to be Circulated by Special Master:

Recommendation:

The Special Master shall prepare, after affording all interested parties the opportunity to comment, the following basic documents: (1) an Initial Canvassing Document, (2) a Questionnaire, (3) a Reminder Canvassing Document, (4) an Information Statement, (5) a Form of Proxy and (6) a Reminder Notice.

(1) The Initial Canvassing Document will include a description of the Plan as approved by the Court, notify the Stockholders of their right to nominate candidates for election as Directors and inform them that to be eligible for inclusion as a nominee in the Information Statement, their nominees must complete the Questionnaire (which will be mailed to them by the Special Master at their request), and file it with the Special Master by December 31, 1977.

(2) The Questionnaire will contain questions, to be answered under oath, designed to assist the Special Master in determining whether proposed nominees are eligible for election and to elicit information comparable to that required by Schedule 14A to be furnished with respect to nominees for election as directors in a proxy statement relating to a stockholder's meeting

for election of directors. The SEC and all groups contesting the Election will be afforded the opportunity to examine Questionnaires returned to the Special Master and to present to the Special Master other information bearing upon the eligibility of proposed nominees for election to the new Board.

(3) The Reminder Canvassing Document will serve as a second notice to the Stockholders of the opportunity being made available to them to nominate candidates.

(4) The Information Statement will contain the Notice of the Meeting (including notice of the record date for determination of eligibility to vote at the Meeting as fixed by the Board subject to the approval of the Special Master), describe the Plan, list the eligible nominees in alphabetical order without indicating by whom they have been nominated and furnish with respect to each nominee such of the information contained in the Questionnaire submitted by such nominee as would be required to be disclosed in a proxy statement, alert the Stockholders to the existence of the election contest and to the likelihood that they will be contacted by the competing groups and notify the Stockholders that, if they wish, they can complete and return to the Special Master th

Form of Proxy enclosed with the Information Statement which, of course, would be revoked by any subsequent proxy.

(5) The Form of Proxy will contain provisions permitting a Stockholder to direct the Special Master to cast the votes to which the Stockholder in question is entitled in favor of the nominees designated by such Stockholder. No provisions permitting a Stockholder to grant any additional authority to the Special Master shall be contained in the Form of Proxy. Properly executed Proxies returned to the Special Master which do not direct the Special Master to cast votes in favor of nominees will be considered as directions to the Special Master to represent the shares of common stock of ICC held by the Stockholder in question at the Meeting for purposes of determining whether a quorum is present.

(6) The Reminder Notice shall serve as a second notice to the Stockholders of the Election and will not be distributed by the Special Master unless, in his judgment, either (i) there is reasonable doubt as to whether a quorum will be present at the Meeting or (ii) there is a reasonable possibility that such a quorum may be obtained without the necessity of considering the shares held by the Receiver to be present for such purpose.

Positions of Interested Parties:

The suggestions made by the SEC and by the Proposed Intervenors are not inconsistent with the above recommendation except, perhaps, in one rather technical respect. The SEC and the Proposed Intervenors appear to assume that the materials prepared and circulated by the Special Master will be "proxy materials" subject to review by the SEC as provided in the Proxy Rules. While the Special Master fully intends to invite and to consider the comments of the SEC as well as all other interested parties upon the materials he will prepare and circulate, he is not prepared to concede that these materials will constitute proxy materials or that, even if they did, the review of such materials by the SEC as contemplated by the Proxy Rules would be constitutionally appropriate. The only reason the Special Master's materials will include a Form of Proxy will be to ensure that Stockholders who do not attend the Meeting, or grant proxies to one of the contending groups, will be represented at the Meeting and be able to vote in favor of nominees other than the nominees sponsored by the contending groups. The Special Master will have no discretion with respect to the casting of votes at the Meeting but will discharge only the ministerial function of voting as directed by such Stockholders.

ICC does not envision that the Special Master should be empowered to circulate any materials whatsoever but appears to view his function as limited to a review of the Notice of Meeting and the proxy materials circulated by ICC.

Since, in fact, the date of the Meeting has been set by the Court and not by the Court-appointed Directors, it appears appropriate for the Special Master, as an officer of the Court, to circulate the Notice of Meeting. The record date for the Meeting should be established by the Court-appointed Directors subject to the approval of the Special Master. The need for the distribution to the Stockholders of an impartial Information Statement by the Special Master appears obvious. ICC apparently believes that the list of nominees contained in such a document should identify the ICC-selected nominees as such. To do so would be to vitiate the neutrality of the Information Statement. Moreover, since all parties, including ICC, will be free to circulate their own material, subject only to compliance with applicable laws and regulations, including the Proxy Rules, no prejudice will be incurred by any group as a consequence of the neutral listing of nominees in the Information Statement. The question of review by the Special Master of the proxy materials prepared by the contending groups is discussed in Part XII of this Plan.

VI. Shareholder Proposals:

Recommendation:

No matters additional to the election of directors shall be proper subjects for consideration at the Meeting. If proposals affecting the Election, such as, for example, the adoption of a by-law changing the size of the Board, were permitted the entire Election could be thrown into disarray. Such proposals could be made the following year and, on balance, to permit such proposals to be considered at the Meeting appears inadvisable. Similarly, to permit Shareholder proposals on other matters would be to permit further complication of an already complicated election.

Positions of Interested Parties:

Neither the SEC nor the Proposed Intervenors have taken any position on this question.

ICC has, in conformity with the position reflected in its other suggestions that the Election will be a regular election, suggested that such proposals, including nominations of candidates for election as Directors from the floor at the Meeting, would have to be considered. For the reasons set forth elsewhere herein, I disagree.

VII. Changes in By-Laws by the Court-Appointed Board:

Recommendation:

No further changes in the existing by-laws of ICC by the Court-appointed Board should be permitted.

Position of Interested Parties:

Neither the SEC nor the Proposed Intervenors have indicated any position on this question.

ICC has stated that the Court-appointed Board of Directors "reserves the right" to implement further changes in the by-laws. It is readily conceivable that changes in ICC's by-laws, particularly changes such as the establishment of Board Committees which could serve to help prevent recurrence of the events alleged in this proceeding to have occurred under the Vesco regime or requiring Stockholder approval for certain actions by the Board, might be appropriate for the new Board to adopt. In the context of a contested election, however, no amendments should be permitted.

VIII. Quorum; Shares Held by Receiver:

Recommendation:

Under ICC's by-laws the presence, in person or by proxy, of a majority of the common stock entitled to vote at the Meeting will be required to constitute a quorum. If the shares held by the Receiver are represented at the Meeting, it should be possible to obtain such a quorum.

The Receiver shall be prohibited from granting any proxy with respect to the shares held by him but shall be directed to attend the Meeting. The shares held by the Receiver shall be counted for quorum purposes but shall not be eligible to vote.

If possible it would be desirable to obtain sufficient representation at the Meeting to ensure the presence of a quorum independently of the shares held by the Receiver.

Positions of Interested Parties:

This recommendation would appear to be consonant with the suggestions made by the SEC and by ICC.

The present position of the Proposed Intervenors on this question is not clear. Since the presence of an ordinary quorum is desirable for the proper conduct of the Meeting and no interests will be adversely affected if the voting of these shares is prohibited, there would not appear to be any basis for any objection.

IX. Manner of Election:

Recommendation:

The ten nominees receiving the highest numbers of votes shall be elected to the Board. In the event of an equality of votes for two or more directors, a run-off election shall be held at the Meeting. (Participants in the election contest should be alert to ensure that proxies solicited by them grant authority to vote in such a run-off. The Form of Proxy to be distributed by the Special Master will contain provisions granting authority to the Special Master to cast votes in run-off elections only if the run-off is between a nominee in whose favor the Special Master has been directed to vote and another nominee. The Special Master shall not vote any Proxies in any run-off between nominees in whose favor such Proxies have directed him to vote.)

Positions of Interested Parties:

The SEC has suggested that a run-off procedure be instituted.

The Proposed Intervenors appear to have no position on this question.

ICC opposes a run-off, again on the theory that the Election should be conducted as a regular election. It is conceivable that tie votes could result. A mechanism must be established and held in reserve to deal with such a situation.

X. Funds of ICC:

Recommendation:

No funds of ICC shall be expended in connection with this Election except in connection with the preparation and circulation of the Special Master's materials as provided in Part V of this Plan or as otherwise directed by the Court or in connection with the retention by the Special Master, if he deems it appropriate, of proxy solicitors for the sole purpose of attempting to ensure the presence of a quorum at the Meeting.

Positions of Interested Parties:

This recommendation would appear to be consonant with the expressed positions of all interested parties.

XI. Expenditures of Personal Funds:

Recommendation:

There shall be no limit or other restriction upon the expenditure by interested parties of their own funds in connection with the Election except as may be imposed by applicable law. No reimbursement for any such expenditures shall be made by ICC after the Election except to the extent approved by the Court.

Positions of Interested Parties:

The Proposed Intervenors and ICC appear to favor allowing each contestant to expend its own funds in connection with the Election. Neither has stated whether, if its nominees were successful in securing election to the new Board, any reimbursement from ICC for such expenditures would be sought.

The SEC appears to envisage that some limit should be placed upon such expenditures of personal funds. Even if the imposition of such a limit were proper, which I doubt, I question whether the Special Master or the Court would be able effectively to enforce compliance.

XII. Review of Proxy Materials Prepared by Contestants; Litigation:

Recommendation:

Copies of all materials submitted to the SEC by the contestants pursuant to the Proxy Rules shall be supplied to the Special Master who may express his views as to such materials to the SEC.

If requested to do so by the Court, the Special Master may make recommendations to the Court with respect to any litigation instituted with respect to the Election.

Position of Interested Parties:

Both the SEC and the Proposed Intervenors suggest that any party seeking judicial relief in connection with the Election should apply first to the Special Master who would then frame a recommendation to the Court regarding the disposition thereof. ICC takes no position on this question.

While the Special Master will, of course, be available to assist the Court by formulating a recommendation with respect to any such proceedings, in view of the fact that they would likely involve requests for injunctive relief based on claimed violations of the Exchange Act, no useful purpose would seem to be served by requiring that such proceedings be brought, in the first instance, before the Special Master.

XIII. Conduct of the Meeting:

Recommendation:

The Meeting will be convened at 10:00 A.M. on Tuesday, April 25, 1978 at such place in New York City as shall be selected by the Special Master. The Special Master shall conduct and preside over the Meeting in accordance with such rules of procedure as he, in his discretion, shall, after consultation with the SEC and the contending groups, determine to be appropriate. The Special Master shall appoint inspectors to count votes and certify the results. Any disputes as to the validity of proxies, or the manner or results of the voting, shall be resolved by the Special Master.

XIV. Time Table:

The following is a preliminary time table showing a summary schedule for implementation of the Plan.

Proposed Time Table

By Tuesday, November 1, 1977	- Plan of Special Master submitted to the Court.
By Thursday, November 10, 1977	- Objections to the Special Master's Plan filed with the Court.
By Thursday, November 24, 1977	- Objections to the Special Master's Plan resolved, Plan for Election adopted by the Court.
By Monday, November 28, 1977	- Proposed forms of Canvassing Documents and Questionnaire prepared by Special Master and circulated.
By Thursday, December 1, 1977	- Comments on and objections to proposed forms of Canvassing Documents and Questionnaire received and determined by Special Master.

By Friday, December 2, 1977	- Initial Canvassing Document circulated to stockholders of record as of most recent practicable date.
	- Copies of Questionnaire available at office of Special Master.
By Friday, December 16, 1977	- Second (Reminder) Canvassing Document circulated to stockholders of record as of most recent practicable date.
Friday, December 31, 1977	- Last date for receipt by Special Master of nominations and completed Questionnaires.
By Friday, January 5, 1978	- Objections to nominees filed with or made by Special Master.
By Friday, January 20, 1978	- Objections to nominees resolved by Special Master.
By Friday, February 3, 1978	- Proposed form of Special Master's Information Statement and Form of Proxy circulated.
By Friday, February 17, 1978	- Comments on and objections to proposed form of Special Master's Information Statement and Form of Proxy received and determined by Special Master.
By Friday, February 25, 1978	- Special Master's Information Statement and Form of Proxy distributed to stockholders of record as of most recent practicable date (copies to be provided in sufficient quantities to permit record owners to make appropriate distributions to beneficial owners).
[Six days later]	- Proxy solicitation by contestants begins.
________, March __, 1978	- Record Date for determination of stockholders eligible to vote at Meeting.

By Friday, March 31, 1978	- 1977 Annual Report of Company distributed by ICC to stockholders of record on Record Date.
	- Information Statement distributed by Special Master to stockholders of record on Record Date who did not receive copies on initial mailing.
By Friday, April 14, 1978	- Reminder Notice (if any) distributed by Special Master.
Tuesday, April 25, 1978	- Meeting.

Respectfully submitted,

October 27, 1977

/s/ Arnold Bauman
Arnold Bauman
Special Master

STIPULATED REQUEST AND MOTION OF SEC)

United States District Court
Southern District of New York

SECURITIES AND EXCHANGE COMMISSION,
Plaintiff,
v.
ROBERT L. VESCO, et al.
Defendants.

72 Civ. 5001 (CES)

Stipulated Request and Motion of Securities and Exchange Commission for Extension of Time Pursuant to Rule 6, Fed. R. Civ. P.

TO: The Defendants and Their Counsel of Record As Set Forth on the Attached Master Service List

The Plaintiff Securities and Exchange Commission (hereinafter "Commission") hereby makes a Stipulated Request and respectfully moves this Honorable Court Pursuant to Rule 6, Fed. R. Civ. P. for an Order Extending the time within which the Commission and all interesting parties may file Papers commenting on, and objecting to, the Plan and Recommendations of the Special Master. An extension of five (5) days is sought from November 10, 1977 to and including November 15, 1977.

The instant Motion for Extension of Time is based on the attached Affidavit of Gregory C. Glynn, and the files and records of this entire case.

Dated: November 9, 1977

Respectfully submitted,

Gregory C. Glynn

Gregory C. Glynn
Assistant Chief Trial Attorney

Lester Green
Special Counsel

Frederic M. Krieger
Trial Attorney

Attorney for Plaintiff
Securities and Exchange Commission
500 North Capitol Street, N.W.
Washington, D.C. 20549
Telephone: (202) 376-8137

William D. Moran
Regional Administrator

Marvin E. Jacob
Associate Regional Administrator

Securities and Exchange Commission
New York Regional Office
26 Federal Plaza
New York, New York 10007

AFFIDAVIT OF GREGORY C. GLYNN

United States District Court
Southern District of New York

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. ROBERT L. VESCO, *et al*. Defendants.	72 Civ. 5001 (CES) Affidavit of Gregory C. Glynn

City of Washington)
) ss:
District of Columbia)

Gregory C. Glynn, being duly sworn, deposes and says:

1. I am an Assistant Chief Trial Attorney with the Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549 (hereinafter the "Commission"), the plaintiff in the above-entitled action and am generally familiar with the files and records of this entire case.

2. I make this Affidavit in Support of the Commission's Stipulated Request and Motion for Extension of Time Pursuant to Rule 6, Fed. R. Civ. P. An extension is sought from November 10, 1977 to and including November 15, 1977.

3. On September 29, 1977, this Court issued an Order (hereinafter "September 29, 1977 Order") regarding the appointment of a Special Master for the election of directors of International Controls Corp. (hereinafter "ICC"). A copy of the September 29, 1977 Order is attached hereto as Exhibit "A."

4. The September 29, 1977 Order provided in Paragraph 4 thereof: "The Special Master shall prepare and submit to the Court, by November 1, 1977, a plan containing his recommendations to the Court for the conduct and supervision of the election." The "Plan and Recommendations of Special Master" were so filed and served on interested parties on October 28, 1977.

5. Paragraph 4 of the September 29, 1977 Order goes on to provide: "Objections to the Special Master's Plan shall be filed with the Court no later than November 10, 1977."

6. Due to the urgent press of other aspects of this litigation as well as other pending cases, Commission personnel have been unable to adequately review and comment on the "Plan and Recommendations of Special Master" by the November 10, 1977 deadline. Therefore the Commission respectfully requests that the time for comments and objections to the Special Master's plan be extended for all parties from Thursday, November 10, 1977 to and including Tuesday, November 15, 1977.

7. The undersigned has spoken concerning the requested extension of time to Edward Brodsky, Esq., counsel for the intervenors, the office of Sheldon Camhy, counsel for ICC and David Butowsky, Special Counsel for ICC. None of the above oppose the extension requested by the plaintiff Commission for all parties. Counsel for of the Special Master has also been advised of the request for the proposed extension and has expressed no opposition.

This Motion is made in good faith and not for the purpose of delay. No prior motion for an extension of time has been made by the plaintiff Commission regarding this matter.

Further affiant sayeth not.

Gregory C. Glynn

Subscribed and sworn to before me
this 9th day of November, 1977.

Notary Public D.C.

My Commission Expires Dec. 14, 1978

RECEIVED
OCT 3 1977
DIVISION OF ENFORCEMENT
TRIAL UNIT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION
Plaintiff

v

ROBERT L. VESCO, et al.,
Defendants

72 Civ. 5001 (CES)

ORDER

STEWART, District Judge:

The Court having issued an order on April 19, 1977 regarding the conduct of an election of directors of International Controls Corporation ("ICC").

ICC having filed proxy materials with plaintiff setting an election date for October 18, 1977 and certain proposed intervenors having moved in opposition thereto which motion was after hearing on August 30, 1977 denied with leave to renew;

Proposed intervenors having moved on September 2, 1977 for an order with respect to various aspects of the election and hearings having been held thereon on September 7, 16 and 29,

IT IS ORDERED:

1. The order of April 19, 1977 is modified as follows:
   - (a) Paragraph (2) is amended to change August 15, 1977 to November 5, 1977.
   - (b) Paragraph (6) is amended to change September 30, 1977 to November 5, 1977.

Exhibit "A"

(c) Paragraph (7) is deleted.

2. An election of directors by the shareholders of ICC shall be held on April 25, 1978.

3. The election shall be conducted and supervised by a Special Master to be appointed by the Court pursuant to Rule 53, F.R.C.P. and the general equity power of the Court.

4. The Special Master shall prepare and submit to the Court, by November 1, 1977, a plan containing his recommendations to the Court for the conduct and supervision of the election. In this connection, the Special Master shall consider and make recommendations to the Court with respect to the various proposals contained in the motion papers of the proposed intervenors, and the responses thereto by plaintiff and ICC. Objections to the Special Master's plan shall be filed with the Court no later than November 10, 1977.

5. The Special Master shall be entitled to payment of reasonable compensation for his services and of his necessary expenses, including but not limited to the employment of counsel, subject to the approval of the Court. Such payment shall be made by ICC.

6. ICC shall submit to the Court for approval on or before December 31, 1977 a plan of settlement of IOS related claims against ICC, subject to any application with respect thereto which ICC may submit to the Court on or before December 15, 1977.

7. ICC shall have completed by March 15, 1978 financial statements prepared by independent auditors for the calendar year 1977, subject to any application by ICC on or before February 28, 1978.

8. The Court hereby appoints Arnold Bauman as the Special Master.

/s/ Charles E. Stewart, Jr.
United States District Judge

DATED: September 29, 1977
New York, New York

United States District Court
Southern District of New York

SECURITIES AND EXCHANGE COMMISSION,
Plaintiff,
v.
ROBERT L. VESCO, *et al*.
Defendants.

72 Civ. 5001 (CES)

Order Extending Time

Upon the Stipulated Request and Motion of the Plaintiff in this action, upon the supporting affidavit filed therein and good cause appearing therefor,

IT IS ORDERED that the time in which the interested parties may file comments on and objections to the "Plan and Recommendations of Special Master" is hereby extended from Thursday November 10, 1977 through and including Tuesday November 15, 1977.

Dated: This ___ day of November, 1977
at New York, New York.

____
United States District Judge

OBJECTIONS OF INTERNATIONAL CONTROLS CORP.
DATED NOVEMBER 8, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- -X
:
SECURITIES AND EXCHANGE COMMISSION,
:
Plaintiff,
:
-against- : 72 Civ. 5001 (CES)
:
ROBERT L. VESCO, et al.,
:
Defendants.
:
- -X

OBJECTIONS BY DEFENDANT INTERNATIONAL CONTROLS CORP. TO PLAN AND RECOMMENDATIONS OF SPECIAL MASTER

TO THE HONORABLE, THE UNITED STATES
DISTRICT COURT FOR THE SOUTHERN
DISTRICT OF NEW YORK

Defendant International Controls Corp. objecting to the Plan and Recommendations of the Special Master served upon it October 28, 1977 states as follows:

1. Recommendation II, Stockholder Lists and Corporate Records, among other things, requires that ICC deliver to the Special Master "not later than 2 business days after any meeting of the Court-appointed Board of Directors, or any of its Committees, copies of the minutes of such meeting ..." It is the view of the Board that minutes of any of its meetings do not constitute a record unless reviewed, corrected (if necessary) and approved as the minutes at a subsequent meeting of the Board. To the extent possible, minutes of one meeting are approved at the next succeeding meeting.

ICC, therefore, objects to this Recommendation and requests that its normal procedure with respect to the preparation and approval of minutes be followed. The Board and the Corporate

Secretary will use their respective best efforts to have minutes approved and available to the Special Master as promptly as possible.

2. Recommendation V, Materials to be Circulated by Special Master, includes in such materials a "Reminder Canvassing Document" which, according to the Time Table contained in Recommendation XIV, is to be circulated to stockholders of record two weeks after the Initial Canvassing Document is circulated. It is the view of ICC that such a second Canvassing Document is unnecessary, and in view of the considerable expense involved in its dissemination (ICC has more than 8,000 stockholders of record), it is objected to. It is to be noted that pursuant to an order of the Court dated April 18, 1977 stockholders have already been solicited for nominations.

3. Recommendation XIV, Time Table, proposes that the Special Master's Information Statement and Form of Proxy be distributed to stockholders by Friday, February 25, 1978 and that the 1977 Annual Report to Stockholders be distributed by Friday, March 31, 1978.

Regulation Section 240.14a-3(b) promulgated under the Securities Exchange Act of 1934 requires that if a solicitation of proxies is made "on behalf of the management of the issuer, and relates to an annual meeting of security holders at which directors are to be elected" proxy statements are to be accompanied or preceded by an annual report to stockholders. Although under the circumstances peculiar to this election the proxy statement is being prepared by and distributed under the supervision of the Special Master, it is the position of ICC that to permit the Information Statement to be mailed to and possibly acted on by stockholders before they receive the Annual Report really deprives them of material facts necessary for the exercise of their judgment. Results of operations do have a material bearing on the election of a board of directors.

Since under the order of the Court appointing the Special Master ICC is to have its results of operations available for distribution by March 15, 1978, and ICC intends to use every effort to meet this date, it is respectfully requested that the Time Table proposed by the Special Master be amended so that the Information Statement and Form of Proxy be distributed simultaneously with the 1977 Annual Report of the Company on March 15, 1978.

Dated: New York, New York
November 8, 1977

Respectfully submitted,

SHEA GOULD CLIMENKO & CASEY

By

A Member of the Firm
Attorneys for Defendant
International Controls Corp.
330 Madison Avenue
New York, New York 10017
212-661-3200

OBJECTIONS OF INTERVENORS DATED NOVEMBER 15, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- x

SECURITIES AND EXCHANGE COMMISSION, : 72 Civ. 5001 (CES)

Plaintiff, : OBJECTIONS TO PLAN AND RECOMMENDATIONS OF SPECIAL MASTER

- against - :

ROBERT L. VESCO, et al., :

Defendants. :

- x

TO THE HON. CHARLES E. STEWART,
UNITED STATES DISTRICT JUDGE:

Proposed Intervenors Wade S. Malhas, Irving Horowitz, Martin Jacoby, Charles Birbara, Cornelius A. Hubner, Murray Dryer, Phil Birbara, and William Zeidman hereby object to and comment on the following portions of the Plan and Recommendations of the Special Master, submitted pursuant to the order of this Court dated September 29, 1977.

The Special Master does not state whether or not under his recommended Plan interested persons will be permitted to solicit their own proxies (as a slate if they so desire) with their own proxy material and letters to Stockholders. We request that the Plan be clarified so that, as in other corporate elections, each contesting group is permitted to prepare its own proxy material and to solicit its own proxy cards, with the last dated proxy as the one which is counted.

We believe from a reading of page 16 of the Plan that it is contemplated that this procedure will be adopted. There, commenting on the positions of the interested parties (rather than as part of the Plan), the Special Master states that "[t]he only reason the Special Master's materials will include a Form of Proxy will be to ensure that Stockholders who do not attend the Meeting, or grant proxies to one of the contending groups, will be represented at the Meeting and be able to vote in favor of nominees other than the nominees sponsored by the contending groups." Thus, while it appears from this language that the Special Master contemplates that Proposed Intervenors and other interested parties will be permitted to send their own proxy cards to Stockholders, that procedure is not specifically set forth in the Plan. We urge that such a procedure be specifically included.

The following are the Proposed Intervenors' objections to specific portions of the Special Master's Plan.

I. Communications with Stockholders.

Proposed Intervenors object to the Special Master's recommendation that no party "interested in the Election" be allowed to communicate with any Stockholder without specific approval of the Special Master until six days after the Information Statement has been mailed to ICC Stockholders. While we agree that any communications to Stockholders relating to the election which purport to be pronouncements on behalf of the Company should receive prior approval from the Special Master, such a blanket restriction should not apply to communications with and among Stockholders which are not made on behalf of the Company. Interested parties, whether or not they are running for office, should be free to communicate with Stockholders at any time so long as they are in compliance with applicable laws and regulations, including the Proxy Rules of the Securities and Exchange Commission. There should be no requirement that such communications be cleared with the Special Master.

Two exceptions are included in the Special Master's recommendation. He would allow communications (i) with Stockholders who are currently participants in groups contesting the Election, or (ii) with up to ten Stockholders who may participate in other group. These exceptions are not sufficiently broad to permit organization of groups to contest the Election. If the Court adopts the recommendation for a Board size of ten directors, interested parties may need to contact more than ten Stockholders in order to form slates of ten nominees.

II. Stockholder List and Corporate Records.

Proposed Intervenors object to the recommendation that no person be granted access to Stockholder lists and minutes of the Court-appointed Board of Directors and any of its committees unless the Special Master has determined that the candidates for election sponsored by, or associated with, such person are eligible for election. Note that we have already received copies of all minutes of the Court-appointed Board up to June 28, 1977. We have not, however, received the Stockholders list.

In our view, interested parties should have the right to see the shareholders list now. Stockholders should not be denied access to the list until they or nominees associated with them have been ruled eligible to run for election. The recommendation, if adopted, would be unfair in that the Court-appointed directors, no one of whom has yet been found eligible to run for election, already have access to the Stockholders list and may use it in connection with the election, while other interested persons have had no such access. In addition, before a person runs for office he may desire to inspect the list in order to determine whether or not to be a nominee. The Special Master's recommendations would prohibit that.

III. Size of Board.

Proposed Intervenors have previously adopted the position that the action of the Court-appointed Board of Directors in August of this year purporting to increase the size of the ICC Board to ten was improper. The Special Master discounts the legal question raised and suggests that the Board be set at ten, effective as of the next Stockholders' Meeting. We contend that this Court should not ratify the improper action by the Court-appointed Board of Directors and that the size of the Board should be maintained at five directors.

IV. Eligibility.

Proposed Intervenors object to that portion of the Special Master's criteria for eligibility for election to the new Board which would exclude any individual "with respect to whom disclosure would be called for by Item 6(a)(2) of Schedule 14A (as proposed to be amended by the SEC in Release No. 34-12946, November 2, 1976)" and any individual believed to be acting on behalf of such individual.

We respectfully submit that the Special Master is confusing disclosure with eligibility so as to bar persons who would not ordinarily be prevented from running for election as a director of a public company. Such a provision has no basis in the Proxy Rules, existing or proposed, which require only disclosure and do not make ineligibile for election those person about whom a disclosure would be required. Thus, this standard, which the Special Master has recommended, is too broad to suit the Special Master's declared objective of preventing "the possibility that Vesco and his associates could participate in the Election" or that "persons whose past conduct had been comparable to Vesco's could participate in the Election."

Proposed Intervenors repeat their prior objection to allowing Court-appointed directors to run for election. Such a step is contrary to the stated goal of returning the company to the Stockholders. We maintain that it is not in the best interests of ICC to have persons with no financial interest in the company in control. The Court-appointed directors have already acknowledged the inherent conflict of interest which prevents them from purchasing stock in ICC. The same conflict of interest should bar their nomination as directors to serve on a Stockholder-elected Board.

V. Materials to be Circulated by Special Master.

The Special Master's Plan should be clarified, by revision of Part V or otherwise, to provide a procedure for the submission of alternative candidates. If one or more of the groups contesting the Election proposes to nominate a full slate of ten candidates (or whatever other number of directors this Court determines should constitute a full Board), and a candidate is eliminated by the Special Master, the sponsoring group essentially would be eliminated as a viable contestant unless the

Plan of Election provides for the submission and review of alternate candidates.

As discussed above, Part V should be revised to specify that groups contesting the Election will be free to send their own proxy materials and form of proxy to Stockholders after compliance with applicable laws and regulations.

Proposed Intervenors object to that portion of subparagraph (4) which would allow the Court-appointed Board of Directors to set the record date for the Stockholders' Meeting. The record date should be set by the Special Master as the impartial supervisor of the Election.

VII. Quorum; Shares Held by Receiver.

Proposed Intervenors repeat their prior objection to counting the shares of stock held by the Receiver for any purpose in connection with the Meeting, including for quorum purposes.

Dated: New York, New York
November 15, 1977

Respectfully submitted,

SPENGLER CARLSON GUBAR CHURCHILL
& BRODSKY
Attorneys for Proposed Intervenors
280 Park Avenue
New York, New York 10017
(212) 682-4444

COMMENTS OF SECURITIES AND EXCHANGE COMMISSION

United States District Court
Southern District of New York

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. ROBERT L. VESCO, et al. Defendants.	72 Civ. 5001 (CES) COMMENTS OF THE SECURITIES AND EXCHANGE COMMISSION ON PLAN AND RECOMMENDATIONS OF SPECIAL MASTER (Corrected Version of November 16, 1977)

Plaintiff Securities and Exchange Commission ("Commission") respectfully submits these Comments on the Plan and Recommendations of Special Master, dated October 27, 1977 (hereinafter "Special Master's Plan").

With respect to Part IV of the Plan, the Commission assumes that any person disqualified by the Special Master from election will be given an opportunity to be heard with respect to any such disqualification.

The Commission also renews its recommendation that the Special Master reserve the right to limit the number of nominees if the number becomes too unwieldy. The broad equitable powers inherent in supervising this election would appear to support a limitation being placed on the number of nominees.

With respect to materials to be circulated under Part V of the Plan, the Commission believes that the materials that the Special Master plans to send to the shareholders should conform with the proxy rules. Based upon the Special Master's statement that he fully intends to consider these rules and other matters, the Commission assumes that any deviation from the proxy rules would not be material.

In this regard, the Commission recommends that the Plan include a requirement that the ICC Board provide the Special Master with whatever further information he may require in preparing the materials to be circulated.

With respect to materials to be circulated by the Special Master, the Commission recommends that the Plan permit the Special Master to prepare and distribute whatever other documents may be necessary or appropriate under the proxy rules.

With respect to revocation of proxies (Special Master's Plan at 14-15) the Commission recommends that the Plan further provide that a shareholder who attends the meeting and votes in person can revoke his proxy. In addition, the Commission recommends that the Plan provide that the "Form of Proxy" will otherwise comply with Rule 14a-4 (17 C.F.R. §240.14a-4), and that the "Form of Proxy" will also disclose (1) how many nominees can be voted for, and (2) the consequences or permissibility of voting for more or less than the number of nominees to be elected.

With respect to use of the term "Information Statement" (e.g., Special Master's Plan at 13-14), the Commission recommends that the term "Proxy Statement" be used in the Plan. The term "Information Statement" is a term of art under Rule 14c-1 (17 C.F.R. §14a-1), where no proxies are being solicited. Use of the term "Proxy Statement" will avoid this possible ambiguity.

The Commission has two suggestions with respect to Part IX of the Plan. First, as a matter of fairness, the Commission believes the Special Master should require a minimum percentage of outstanding shares for someone to be elected to the Board.

Second, in regard to possible run-off elections, the Commission recommends that the Special Master consider the possibilty of resoliciting shareholders for a run-off. This will assure that all shareholders have a reasoned vote under the different circumstances of a run-off.

With respect to Part XII of the Plan, the Commission suggests that the Plan provide times within which such proxy material be supplied to the Special Master and within which the Special Master is to provide whatever views he may desire to express to the Commission.

Respectfully submitted,

Frederic M. Krieger
Frederic M. Krieger by GCG
Gregory C. Glynn
Lester Green

Attorneys for Plaintiff
Securities and Exchange Commissior
500 N. Capitol Street, N.W.
Washington, D.C. 20549
Telephone (202) 376-8137

William D. Moran
Regional Administrator

Marvin E. Jacob
Associate Regional Administrator

New York Regional Office
Securities and Exchange Commission
26 Federal Plaza
New York, New York 10007

Dated: Washington, D.C.
November 16, 1977

because I was curious as to what was happening and also because frankly I'm concerned that we may somewhere do something technically which we shouldn't be doing because Mr. Brodsky isn't officially in the lawsuit.

I suppose, Mr. Brodsky, I will look to you to make sure that we keep your status in mind. So far we have been able to function and I will expect you to let me know if you think something should be done which isn't being done about your status in the lawsuit.

MR. BRODSKY: Thank you, your Honor.

Your Honor, maybe we can do this a little more quickly than the present procedure contemplates. Your Order, as you recall, states that if we can satisfy Mr. Butowsky and basically the SEC that we have no connection to Mr. Vesco. That's the issue your Honor was interested in.

I told both Mr. Butowsky and I believe Mr. Glynn, we are prepared to give affidavits, whatever kind of statements they want to that effect. It is terribly expensive for us to be appearing at depositions for that purpose.

THE COURT: I think we discussed that last Spring. I'm not sure I did this but I think there was a suggestion that perhaps you ought to start with affidavits

> "On and after the sixth calendar day following the date upon which the Special Master shall have mailed to the Stockholders the Information Statement referred to in Part V of this Plan, any person or group contesting the Election shall be free to solicit proxies and communicate with the Stockholders in accordance with applicable laws and regulations, including the Proxy Rules of the SEC." (additional material underlined)

and b) adding a new antepenultimate sentence to Part XIII of the Plan reading as follows: "In the event that any Stockholder shall have executed more than one proxy the last dated proxy executed by such Stockholder shall be considered a revocation of all proxies previously granted."

(2) Proposed Intervenors object to portions of Parts I through V and Part VII of the Plan.

For the most part, the considerations relevant to your evaluation of these objections have been thoroughly argued before the Court and were considered in the preparation of the Plan. Except as stated herein, I do not consider these objections to be sound and I believe that the provisions of the Plan to which these objections relate are proper under the circumstances. The following comments on these objections may, however, be helpful.

A fundamental judgment underlying the substantive provisions of the Plan was that because the Election is not an ordinary election of directors by an ordinary corporation, adherence to the ordinary rules governing elections of directors would be inappropriate. The fact that in an ordinary election the SEC's Proxy Rules (which are designed to ensure that proper disclosures have been made) would not prohibit certain actions by the contending groups or eliminate certain nominees from eligibility for election as Directors, is, to my mind, as beside the point as is the fact that the rules of Florida corporate law would be less restrictive than the provisions of the Plan.

Proposed Intervenors point out (as did counsel to ICC in a separate communication to me, a copy of which is enclosed herewith) that they have already received a set of the minutes of the meetings of the Court-appointed Board through June 28, 1977. I recommend that counsel to the Proposed Intervenors be directed to submit this set to the Special Master forthwith in order to ensure that the question of access to these minutes and the minutes of subsequent meetings of the Board is resolved on a consistent basis.

(3) The Proposed Intervenors request clarification of the Plan to provide a procedure for the submission of alternative candidates. This request appears to me to be reasonable and I recommend insertion of a new final paragraph in Part IV of the Plan as follows:

> "In the event that the Special Master shall determine that any nominee is ineligible for election to the new Board, the Special Master shall give written notice by first class mail to the Stockholder proposing such nominee (or the Court-appointed Board of Directors if such nominee shall have been proposed by such Board) of such determination and such Stockholder, or the Court-appointed Board, as the case may be, may, not later than the tenth business day following the date of mailing by the Special Master of such notice, submit to the Special Master a proposed replacement nomination. The Special Master shall not be required to consider any such replacement nomination unless the Special Master has actually received by the date specified above a properly completed and duly sworn Questionnaire with respect to the replacement nominee. If the replacement nominee is also determined by the Special Master to be ineligible for election to the new Board, the Special Master will notify the Stockholder or the Court-appointed Board, as the case may be, which proposed such replacement nominee of such determination but no opportunity to propose a further replacement shall be afforded by the Special Master unless, in his discretion, he deems it appropriate to do so."

(B) Comments of ICC.

(1) ICC points out that the minutes of the meetings of the Court-appointed Board do not constitute official records of ICC until approved by the Board at a subsequent meeting. This point may be valid. I recommend therefore

a) the revision of the last sentence of the first paragraph of Part II of the Plan to read as follows: "Not later than 2 business days after any meeting of the Court-appointed Board of Directors, or any of its Committees, the Secretary of ICC shall prepare drafts, in the form and detail customarily prepared by the Secretary for submission to the next meeting of the Board of Directors or of such Committee, of the minutes of such meeting and submit such draft minutes to the Special Master."

and b) the addition to such paragraph of a new sentence to follow the sentence set forth in (a) as follows: "Not later than 2 business days after the final adoption of minutes of any meeting of the Court-appointed Board of Directors or any Committee thereof, copies of such minutes shall be delivered to the Special Master."

(2) ICC suggests that the Reminder Canvassing Document be eliminated. My counsel have been informally advised by counsel for ICC that the cost of circulating a one-page Reminder Canvassing Document to the approximately 10,000 beneficial owners of ICC common stock would be approximately $10,000. I do not consider the preparation and circulation of the Reminder Canvassing Document to be an essential element of the Plan. The reason the Plan contemplated the preparation and circulation of a Reminder Canvassing Document was to maximize the chances for widespread Stockholder participation in the nomination process.

(3) ICC suggests that the Information Statement and Form of Proxy be distributed simultaneously with the 1977 Annual Report of ICC which ICC intends "to use every effort" to distribute on March 15, 1978. I believe that the neutral Information Statement should be distributed as soon as practicable in order to give the contending groups the maximum of time to argue their cases to the Stockholders. I also believe that, in any event, the Information Statement should be circulated separately from the Annual Report because the Annual Report will be an important element in the evaluation by the Stockholders of the performance of the Court-appointed Board and will have an impact upon the evaluation by the Stockholders of the nominees of the Court-appointed Board. I believe that it is important that the Information Statement be clearly perceived by the Stockholders as a neutral document prepared by the Special Master which is completely separate from the active proxy solicitation efforts conducted by the contending groups, including the Court-appointed Board, in favor of their nominees.

C. Comments of the SEC.

(1) The SEC "assumes" that nominees determined to be ineligible for election to the new Board by the Special

Master will be given "an opportunity to be heard". This assumption is correct. No change in the Plan appears to be necessary on this issue.

(2) The SEC renews its recommendation that the Special Master reserve the right to limit the number of nominees. As noted in the discussion under "Positions of the Interested Parties" in Part IV of the Plan and Recommendations, I do not believe that an excessively large number of eligible nominees is likely to be presented. If such a development were to occur, I am aware of no standards to which I could refer to exclude any particular eligible nominee or nominees on the ground that the total number of eligible nominees was "unwieldy".

(3) The SEC "assumes" that any deviation from the Proxy Rules by the Special Master's materials will not be "material". This assumption is correct except to the extent that the Special Master may determine that any "material" deviation from the Proxy Rules is necessary or advisable. The Plan provides that "all interested parties", which would include the SEC, will be afforded the opportunity to comment on the Special Master's materials. No change in the Plan appears to be necessary on this issue.

(4) The SEC recommends that the Plan include a requirement that the Court-appointed Board provide the Special Master with whatever information he may require in preparing the Special Master's materials.

I do not believe a specific provision to cover this point is necessary but would have no objection to inserting in Part II of the Plan a new final paragraph reading as follows:

> "The Court-appointed Board of Directors shall provide the Special Master with all information relevant to the Election possessed by such Board as may be requested by the Special Master."

(5) The SEC recommends that the Plan permit the Special Master to prepare and distribute whatever other documents may be necessary or appropriate under the Proxy Rules. I do not believe a specific provision to cover this point is necessary but would have no objection to inserting in Part V of the Plan a final unnumbered paragraph after the paragraph describing the Reminder Notice reading as follows:

> "The Special Master may prepare and distribute to the Stockholders, after affording all interested parties the opportunity to comment, any other documents he may deem necessary or appropriate in connection with the Election."

(6) The SEC recommends that the Plan provide that attendance and voting at the Meeting by a Stockholder shall constitute a revocation of any proxies granted by such Stockholder. I do not believe a specific provision to cover this point is necessary but would have no objection to inserting in Part XIII of the Plan a new third sentence reading as follows:

> "Any Stockholder who personally attends the Meeting and votes at the Meeting shall be deemed to have revoked any proxies granted by such Stockholder."

(7) The SEC also recommends that the Plan provide that the Form of Proxy will comply with Rule 14a-4. Rule 14a-4 is one of the Proxy Rules and there would appear to be no reason to single this particular Proxy Rule out for special treatment. The question of compliance of the Special Master's materials with the Proxy Rules, in general, is dealt with under (3) above.

(8) The SEC also recommends that the Form of Proxy disclose "(1) how many nominees can be voted for and (2) the consequences or permissibility of voting for more or less than the number of nominees to be elected". I support this recommendation and suggest

> a) revision of the first sentence of the description of the Form of Proxy in Part V of the Plan to read as follows: "The Form of Proxy will contain provisions permitting a Stockholder to direct the Special Master to cast the votes to which the Stockholder in question is entitled in favor of not more than 10 of the nominees, as designated by such Stockholder." (added material underlined)

and

> b) revision of the last sentence of such description to read as follows: "Properly executed Proxies returned to the Special Master which do not direct the Special Master to cast votes in favor of any nominees or which purport to direct the

> Special Master to cast votes in favor of more than 10 nominees, will not be voted but will be considered as directions to the Special Master to represent the shares of common stock of ICC held by the Stockholder in question at the Meeting for purposes of determining whether a quorum is present." (added material underlined)

(9) The SEC recommends that the term "Proxy Statement" be used instead of the term "Information Statement." While the labels assigned to the Special Master's materials are not matters of great significance, since the Special Master's materials will be neutral and will not involve solicitation of proxies in favor of particular nominees the term "Proxy Statement" appears to be the more ambiguous and confusing of these two alternatives.

(10) The SEC suggests that the Special Master should, as a matter of "fairness" require the favorable vote of the holders of a minimum percentage of the outstanding shares of common stock of ICC for election to the new Board. The current by-laws of ICC are clear that elections are to be decided by a plurality of the votes cast at a meeting at which a quorum is present (Article II, Section 1 and Article I, Section 5). The imposition of any such minimum percentage would constitute a rewriting of the by-laws of ICC on this point and, even if such a rewriting were appropriate, no guidelines are suggested by the SEC or are readily apparent. I am not at all sure what the SEC would suggest should occur in the unlikely event that, assuming such standards were adopted by the Special Master, less than 10 directors received votes satisfying such standards. I do not believe that this area is likely to be a practical problem and I fear that the theoretical and practical difficulties raised by the procedure suggested by the SEC are substantial. I oppose this recommendation.

(11) The SEC suggests resolicitation of the Stockholders in the event a run-off election should be necessary. I oppose this recommendation because it would entail delay in completing return of ICC to the control of the Stockholders and uncertainty as to the status of the Board of ICC pending the completion of such resolicitation.

(12) The SEC recommends, finally, that the Plan establish time periods for submission of proxy material by the contending groups and for comments thereon by the Special Master to the SEC. I would have no objection to revising the first sentence of Part XII of the Plan, and adding a new second sentence to such Part, to read as follows:

> "Copies of all materials submitted to the SEC by the contestants pursuant to the Proxy Rules shall be supplied to the Special Master concurrently with the submission of such materials to the SEC. The Special Master shall express any views he may desire to express on such materials to the SEC as promptly as practicable after receipt by the Special Master of such materials." (added material underlined)

Respectfully submitted,

/s/ Arnold Bauman
Arnold Bauman
Special Master

cc: By Hand and w/enc. to:

Marvin E. Jacob, Esq.
SEC (New York)

Gregory C. Glynn, Esq.
SEC (Washington)

Frederic M. Kreiger, Esq.
SEC (Washington)

Edward Brodsky, Esq.

Sheldon D. Camhy, Esq.

MEMORANDUM DECISION AND ORDER OF HON. CHARLES E. STEWART DATED NOVEMBER 22, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, : 72 Civ. 5001

-against- :

ROBERT L. VESCO, *et al.*, : MEMORANDUM DECISION

Defendants. :

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STEWART, DISTRICT JUDGE:

We have reviewed the comments and objections of the SEC, of ICC and of the Proposed Intervenors to the Plan recommended by the Special Master in his report dated October 27, 1977 (filed on October 28, 1977). We have also reviewed the comments and recommendations thereon of the Special Master contained in his letter to the Court dated November 21, 1977 ("SM letter"). Our conclusions are as follows:

1. We approve the additional language proposed by the Special Master for inclusion in the Plan in Part I (SM letter, pp. 1-2), Part XIII (SM letter, p. 2), Part IV (SM letter, p. 3), Part II (SM letter, pp. 3-4 and 5), Part V (SM letter, p. 6), Part XIII (SM letter, p. 6), Part V (SM letter, pp. 6-7) and Part XII (SM letter, p. 8).
2. As requested in the last paragraph on page 2 (SM letter) counsel to the Proposed Intervenors are directed to submit the set of the minutes of the meetings of the

Court-appointed Board (which have been delivered to counsel by counsel for ICC) to the Special Master forthwith.

3. With respect to the Reminder Canvassing Document (SM letter, p. 4), the plan should be revised to give the Special Master discretion as to when and whether to distribute this document.

4. We suggest that the Special Master consider changing the label for the "Information Statement" to "Statement of Election Information", or some similar title in view of the SEC's comment (SM letter, p. 7). The Special Master will consult with counsel for the interested parties in this connection, but the determination of an appropriate label should not delay further proceedings under the Plan.

5. In all other respects, and having in mind the comments and recommendations by the Special Master, we approve the Plan with the amendments indicated herein.

The Special Master shall promptly prepare and distribute a revised Plan in accordance with this opinion.

SO ORDERED.

United States District Judge

DATED: New York, New York
November 22, 1977.

ORDER OF HON. CHARLES E. STEWART DATED DECEMBER 19, 1977

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RECEIVED
CHAMBERS
JUDGE STEWAR

U.S. DISTRICT COURT
FILED
DEC 20 1977
S.D. OF N.Y.

18 DEC 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION, :

Plaintiff, : 72 Civ. 5001 (CES)

-against- : ORDER

ROBERT L. VESCO, et al., :

Defendants. :

---------------------------------------X

A motion having been made by petitioners, Wade S. Malhas, Irving Horowitz, Martin Jacoby, Charles Birbara, Cornelius A. Hubner, Murray Dreyer, Phil Birbara, N.E. Burgess and William Zeidman, for an order pursuant to Rule 24 of the Federal Rules of Civil Procedure permitting the said petitioners to intervene in this action, and for other and further relief as the Court might deem just and proper,

AND International Controls Corp. ("ICC"), David M. Butowsky, Esq., Special Counsel to ICC, and the Securities and Exchange Commission having appeared and informed the Court that they have no objection to intervention by petitioners for the purpose of participating in Court proceedings relating to a shareholders meeting of ICC now scheduled for April 25, 1978,

AND this Court having issued its Order of April 19, 1977, requiring that any party wishing to oppose the motion to intervene to so advise the Court on or before September 30, 1977, and this Court having extended the date for opposition to November 5, 1977 by order dated September 29, 1977, and no such opposition having been heard, IT IS ORDERED that petitioners' motion, pursuant to Rule 24 of the Federal Rules of Civil Procedure, to intervene in this action is hereby granted for the purpose of ~~all aspects of this~~ participating in ~~action~~ matters relating to the shareholders meeting of ICC, with leave for petitioners at any time to renew their motion to intervene as parties for all purposes.

C 41

Dated: New York, New York
December 19, 1977

Charles Tenney
U.S.D.J.

375—Affidavit of Service

The Reporter Co., Inc., 11 Park Place, New York, N. Y. 10007

United States Court of Appeals
For the Second Circuit

Securities and Exchange Commission

Plaintiff

against

Robert L. Vesco et al.

Defendants

Wade S. Malhas etn al.

Intervenor-Appellants

AFFIDAVIT OF SERVICE

STATE OF NEW YORK,

COUNTY OF NEW YORK, ss:

Raymond J. Braddick,
agent for Spengelrr, Carlson, Gubar Churchill & Brodsky Esqs. being duly sworn,
deposes and says that he is over the age of 21 years and resides at
11 Park Place New York,New York

That on the 10th. day of January, 1978
he served the annexed Joint Appendix upon

Shea Gould Climenko & Kramer Esqs.
330 Madison Avenue
New York,New York

Securities and Exchange Commission
26 Federal Plaza
New York, New York

Gregory C. Glynn Esq.
c/o The Securities and Exchange Commission
500 North Capitol Street N.W.
Washington D.C. 20549

in this action, by delivering to and leaving with said attorneys

a ~~three~~ true copies to each thereof.

Deponent Further Says, that he knew the persons so served as aforesaid to be the persons mentioned and described in the said action.

Deponent is not a party to the action.

Sworn to before me, this 10th.

day of January, 1978

ROLAND W. JOHNSON
Notary Public, State of New York
No. 4509705
Qualified in Delaware County
Commission Expires March 30, 1974